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Page

Resolution *re* Grievances of Postmasters—Withdrawn by leave of the Council ... ... 126—1

Resolution *re* Restriction of Opium Cultivation—Negatived ... 140—1

Amendment of the law relating to Interest Bill—Introduced ... 160—1

Resolution *re* Interest on deposits in Post Office Savings Banks opened by Muhammadan depositors—Withdrawn by leave of the Council 162—16

Resolution *re* Indianizati n of the Establishment of the High Commissioner for India—Not moved 16

Date for discussion of the Resolution *re* the Reforms Inquiry Committee's Report ... ... 164—1

WEDNESDAY, 2ND SEPTEMBER, 1925—

Question and Answer ... ...

Bills passed by the Legislative Assembly laid on the Table ... ...

Indian Succession Bill—Passed ... ... 167—

Indian Succession (Amendment) Bill—Withdrawn ... ... 172—

THURSDAY, 3RD SEPTEMBER, 1925—

Transfer of Property (Amendment) Bill—Introduced ... ...

Resolution *re* Inquiry into the condition of the Cotton Mill Industry—Withdrawn ... ... 175—

Special Laws Repeal Bill—Motion to consider negatived ... ... 176—

Statement of Business 234

Resolution *re* Bounty to be paid on steel manufactured in India ... 23

MONDAY, 7TH SEPTEMBER, 1925—

Questions and Answers 2

Bills passed by the Legislative Assembly laid on the Table 237—

Code of Civil Procedure (Amendment) Bill—Passed ...

Religious Endowments (Amendment) Bill—Passed ... ... 238—

Salt Law Amendment Bill—Passed ... ... 239—

Legislative Members Exemption Bill—Passed ... ... 240—

Sikh Gurdwaras (Supplementary) Bill—Passed ... ... 241—

Statement of Business ... ...

TUESDAY, 8TH SEPTEMBER, 1925—

Resolution *re* Indianization of the staff and establishment of the High Commissioner for India—Adopted as amended ... ... 243—266

Transfer of Property (Amendment) Bill—Passed as amended ... 267—272

WEDNESDAY, 9TH SEPTEMBER, 1925—

Questions and Answers ... ... 273—276

Resolution *re* Franchise for Women—Adopted ... ... 277—286

Resolution *re* Bounty on Steel manufactured in India—Adopted ... 286—306

THURSDAY, 10TH SEPTEMBER, 1925—

Questions and Answers 307

Bill passed by the Legislative Assembly laid on the Table ... ... 307—308

Resolution *re* Protection of the rights of Indians in South Africa—Adopted as amended .. .. 308—32

Indian Penal Code (Amendment) Bill—Passed as amended ... 329—3

FRIDAY, 11TH SEPTEMBER, 1925—

Member sworn 3

Resolution *re* Recommendations of the Majority Report of the Reforms Inquiry Committee—Discussion adjourned till the 12th September, 1925 367—4

COUNCIL OF STATE.

Thursday, the 3rd September, 1925.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

TRANSFER OF PROPERTY (AMENDMENT) BILL.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay : Non-Muhammadan) : Sir, I rise to ask for leave to introduce a Bill to amend the Transfer of Property Act, 1882.

The Statement of Objects and Reasons explains fully the necessity for this Bill. In accordance with the Act as it stands at present, assignments of life insurance policies without consideration are documents about which there is a doubt whether they should be registered or not. In practice, however, such documents are not registered. Under section 130 of the Act the transfer of any actionable claim with or without consideration is not required to be registered. But, Sir, in this country, as there is no distinction between " good " and " valuable " consideration, assignments of life policies in favour of relatives are gifts *inter vivos* and as such would come under section 123, and under section 123 they would require to be registered. There is, therefore, a doubt on this question and even eminent counsel are not agreed about it. This doubt can be removed by providing an exception to section 123 and that is exactly what the Bill proposes to do.

The motion was adopted.

THE HONOURABLE MR. PHIROZE C. SETHNA : I introduce the Bill.

RESOLUTION *RE* INQUIRY INTO THE CONDITION OF THE COTTON MILL INDUSTRY.

THE HONOURABLE MR. HAROON JAFFER : (Bombay Presidency : Muhammadan) : Sir, I gave notice of my Resolution* which is on the agenda about the end of July last. Since then, a deputation of the millowners have waited upon His Excellency the Viceroy in order to place the grievances of the mill industry before the Government. In reply His Excellency has made an offer of an inquiry and that proposal is now under the consideration of the millowners. In the circumstances, Sir, I have no desire to complicate matters unnecessarily by proceeding with this Resolution of mine. I therefore beg leave to withdraw this Resolution. The Resolution which stands in my name....

THE HONOURABLE THE PRESIDENT : There is no necessity for the Honourable Member to read the Resolution if he does not propose to move it

* This Council recommends to the Governor General in Council that an inquiry be immediately made into the condition of the Indian cotton mill industry and into remedies for its amelioration."

[The Honourable the President.]

nor does he require the leave of the House to withdraw it. I understand the Honourable Member has withdrawn the Resolution.

THE HONOURABLE MR. HAROON JAFFER: Yes, Sir.

SPECIAL LAWS REPEAL BILL.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I beg to move that the Bill to repeal certain special enactments supplementing the ordinary criminal Law, as passed by the Legislative Assembly, be taken into consideration.

In doing so, I desire to narrate very briefly the events that led up to the passing of this measure by the Assembly, in the hope that such a narration as that will itself be sufficient to induce you to vote for this motion. The Bill is the outcome of long and strenuous efforts made by both Chambers of their reformed Central Legislature to secure the repeal of the repressive laws which disfigure the Indian Statute-book. I am glad to be able to say that the initiative in this matter came from this Chamber. On the very first day, after its inauguration, on which it sat to transact ordinary business, the fourteenth Day of February 1921, the Honourable (now Right Honourable) Mr. V. S. Srinivasa Sastri moved a Resolution to the following effect:—

"This Council recommends to the Governor General in Council that a committee be appointed at an early date to examine the repressive laws now on the Statute-book and report whether all or any of them should be repealed and, in case where repeal is not desirable, whether the laws in question should be amended and, if so, how."

The Resolution was carried *unanimously*. In pursuance of it the Home Department by a Resolution, dated the 21st March 1921, appointed a committee consisting of officials and non-officials with Sir Tej Bahadur Sapru as its Chairman. The committee examined 13 repressive laws including the 5 mentioned in the Schedule to the present Bill under discussion. Of these five, they recommended the repeal of four. I know that they made a reservation in favour of preserving, if necessary, powers strictly consistent with the original purpose of the third venerable old Regulations, namely, (1) The due maintenance of the alliances formed by the British Government with foreign powers; (2) The preservation of tranquillity in the territories of the native Princes, and (3) The securing of British Dominions from foreign hostility, and, only so far as the inflammable Frontier is concerned, internal commotion. The only Act out of the five now under discussion whose retention the committee recommended was the Prevention of Seditious Meetings Act, X of 1911, but even in respect thereof they recommended its repeal when a healthy change in the political situation permitted. It was itself conceived as a temporary measure even at its inception.

There were no Swarajists or Extremists in the committee. Indeed from the nature of the evidence placed before the committee and some of its recommendations, a section of well-informed Indian public opinion suspected, (not without some reason, that the Committee and the Resolution) to which it owed its birth, were both inspired by the Government in order to strengthen

the hands of the Executive to root out the non-co-operation movement in the guise of partial reconciliation and sweet reasonableness. The era of terrible repression that followed the publication of the report by the committee lent some colour to this suspicion. Whatever may be the truth, it is noteworthy, for my present purpose, that even that committee considered that in regard to many of the laws examined by them, their continuance on the Statute-book was both unnecessary and objectionable and recommended their repeal.

The report of the committee was published on 2nd September 1921, and on the 19th September 1921, the Government passed the following order thereon :—

" The Governor General in Council has considered the Report and has decided to accept the recommendations made by the committee ; steps will be taken *as soon as may be* to introduce legislation to give effect to them."

In spite of the aforesaid promise to introduce legislation as soon as may be (mark the words) no steps were taken by the Government to repeal any one of the five repressive laws with which this Bill deals.

Then on the 20th March 1924, after a lapse of two years and a half, a Resolution was moved in the Legislative Assembly to the following effect :

" This Assembly recommends to the Governor General in Council to take steps for the immediate repeal of Bengal Regulation III of 1818, and the Criminal Law Amendment Act of 1908, and other repressive laws and regulations that still exist on the Statute-book."

It was carried by an overwhelming majority. Nevertheless, the Government did not make the slightest effort to give effect to this Resolution. Then Mr. V. J. Patel (now the Honourable Mr. Patel) sent up the present Bill in its original form in September 1924, but it was not reached in that Session. He obtained leave to introduce it in the last Delhi Session on 3rd February and it was ultimately passed in its present form by the Assembly on the 19th March 1925, and was laid on the table of this House at its next meeting in due course. There were very few days in March last left thereafter for me to bring it here for consideration and I have therefore taken the earliest opportunity to bring it now before this House.

From the Schedule attached to the Bill which is placed in your hands you will see that five enactments are sought to be repealed. Of these, the first three are a century old and the fourth is three quarters of a century old. The Bengal State Prisoners Regulation III of 1818, has been extended also to the United Provinces, the Central Provinces, the Punjab, Bihar and Orissa and Assam. So this Regulation, together with its sister Regulations of Madras and Bombay, cover practically the whole of India. All of them deal with offences against the State and were enacted long before the passing of the Indian Penal Code which contains a Chapter exhaustively dealing with every conceivable offence against the State including *conspiracy*. At the time when the first three Regulations were enacted the British power was not firmly established in the land. Titular Sovereigns and their more powerful provincial chiefs were still on their thrones and more than one European Power was contending for sovereignty or supremacy in India. The Preamble of Regulation III of 1818 is sufficient to give you an idea of the purposes which these enactments were intended to serve :

" Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the promotion of tranquillity in them

[Mr. V. Ramadas Pantulu.]

territories of native Princes entitled to its protection and the security of the British Dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings or when such proceedings may not be adapted to the nature of the case or may for other reasons be inadvisable or improper."

It is not denied that the ordinary law covers the offences contemplated by these archaic, antedeluvian, and unjudicial pieces of legislation. I call them *unjudicial* because they are of the nature of *lettres de cachet* which dispense with all forms of legal trial and make the very Executive which is the subject of attack by the alleged offender the prosecutor, judge and executioner. The main ground urged for their retention is the impossibility of securing in all cases the evidence necessary to bring the accused to trial in a court of law. This stale and stock argument of the bureaucracy was fully and sympathetically considered by the Repressive Laws Committee to which I referred and was disposed of by it in the following tender way:

"We recognise the force of these arguments, in particular the difficulty of securing evidence or preventing the intimidation of witnesses.....But we consider that in modern conditions of India that risk must be taken. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislature.....The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shown, be greater even than the evil which such powers are directed to remedy."

It is obvious that the pathetic plea of the Executive for the retention of its autocratic powers of an obnoxious character may have been disposed of on much firmer, more convincing and humane grounds. However, the reasons given by the Committee are sufficient to serve my purpose. Apart from its inherent merits as a piece of just and sound legislation, consonant with our modern notions of civilized jurisprudence, there are many points in its favour.

The *first* point in favour of this Bill is the almost unanimous desire which the Members of this House evinced for the repeal of repressive legislation, on the 14th February 1921, as a necessary preliminary for the inauguration of the new era of responsible government under the reformed constitution. The *second* point in favour of the Bill is the recommendation of the Repressive Laws Committee in favour of the repeal of the enactments in question. The *third* point in its favour is the wholehearted acceptance of the Committee's recommendations by the Government in September 1921, accompanied by a promise to introduce necessary legislation for the purpose. The *fourth* point in its favour is the adoption by the Legislative Assembly in March 1924, by an overwhelming majority of a Resolution in favour of the repeal of these laws. I have a *fifth* reason also which I shall state later on. What then are the reasons which actuated the Government to go back on their undertaking of 1921 and to ignore the wishes of both Houses of the Central Legislature. Sir Malcolm Hailey, speaking in the Assembly in March 1924, gave his reasons. He said that af er the report of the Committee was received the Government were faced with new dangers, namely, the Moplah rebellion in Malabar, information about the existence of a Bolshevik

association in this country and the recrudescence of conspiracy in Bengal, and these were said to be the justification for Government's change of attitude. I believe that some of the Members of this House, at all events, know how these dangers were overcome by the Government. The Moplah rebellion was suppressed mainly by the proclamation of martial law and with the help of the military. The absence of a deportation Regulation on the Statute-book would not have handicapped the Government in the least. Moreover, I may mention that there is a very drastic special law called the Moplah Outrages Act, which is exactly similar to the Punjab Murderous Outrages Act of 1867, in force in Malabar and that it armed the Government with ample powers. With regard to the Bolshevik Association, it is now a matter of common knowledge, that its members were brought to trial in the ordinary courts at Cawnpore, and there was no suggestion that any need for the use of a rusty weapon in the legislative armoury was felt. As for the conspiracy in Bengal I am not here concerned with the truth or otherwise of its existence. All I know is that in the name of conspiracy about sixty true and honest Swarajists like Subash Chander Bose, Anil Baran Roy and some other lieutenants of the late Deshabandhu C. R. Das were spirited away under Regulation III of 1818 and the now notorious Bengal Criminal Ordinance was subsequently placed on the Statute-book without the assent of any Legislature in India by recourse to certification and recommendation. Many impartial and respected leaders, including Mahatma Gandhi, openly expressed their belief that the Regulation and the Ordinance were aimed at the Swarajist movement. Sir, I therefore beg to state to this House that the reasons given by Sir Malcolm Hailey for the action of the Government in not repealing these Regulations are to say the least most unconvincing. A very large section of the Indian public, whose feeling I claim to voice, believe that the Government changed their mind simply because, from the latter part of 1921 onwards, the momentum of the movement for the achievement of Swaraj was growing in volume and intensity. I venture to say, Sir, that the bureaucracy is tenaciously clinging to these repressive laws, in order to suppress all effective forms of political agitation. The way in which these Regulations were used in the *anti*-partition agitation days in Bengal confirms me in this view. Men like Aswini Kumar Dutt, Krishto Kumar Mitra, Subash Chandra Mallik and Monoranjan Guha were arrested and deported as revolutionaries. My Honourable Colleagues from Bengal will undoubtedly be able to bear testimony to the spotless character and noble patriotism of these victims of the bureaucratic wrath. The truth of the matter is not that the ordinary law is sufficent to maintain law and order but as Lord Morley put it aptly :—

"The great executive officers never like or trust lawyers. I will tell you why ? for they never trust or like law."

Now, Sir, this method of governing by repressive laws has not proved a success in any country ; it will tend to increase discontent. In regard to Bengal itself I shall quote the testimony of one who is not in sympathy with the politics of my party—the Swaraj Party—and who is not an unfriendly critic of the bureaucracy, Mr. Bipin Chandra Pal. He said the other day speaking in the Assembly :—

"I know it that, before these deportations and internments came into existence in Bengal, the revolutionary movement was not half so wide-spread as it became

[Mr. V. Ramadas Pantulu.]

subsequently. Old men had nothing to do with it. Staid house-holders in the villages had no part or lot in this propaganda. But when these deportations came, when these internments came, when the iron of these prosecutions entered into the heart of the simple minded relations and friends of your political suspects—it was then that we found everybody, extremists, moderates, literate or illiterate, moved by a new and deep sense of resentment against the Government coming and telling us: What are we coming to? Is this the Government under which we have to live? This seems to be the experience of rightminded statesmen all over the world. Repression begets greater discontent which in its turn calls for greater repression and so on.

I beg leave to quote one passage from what Lord Morley said about the use of these Regulations when he was pressed by the Indian Government to sanction deportations under them. Lord Morley, the Secretary of State for India then, dealing with these Regulations and the arguments of that character wrote as follows:—

"You state your case with remarkable force, I admit. But then I comfort myself, in my disquiet at differing from you, by the reflection that perhaps the Spanish Viceroys in the Netherlands, the Austrian Viceroy in Venice, the Bourbon in the two Sicilies, and a Governor or two in the old American Colonies, used reasoning not wholly dissimilar and not much less forcible."

Speaking of the Regulations this is what Lord Morley wrote:—

"The question between us two upon this matter may, if we don't take care, become what the Americans would call ugly. I won't repeat the general arguments about deportation. I have fought against those here who regarded such a resort to the Regulation of 1818 as indefensible. So, *per contra*, I am ready just as stoutly to fight those who wish to make this arbitrary detention for indefinite periods a regular weapon of Government. Now your present position is beginning to approach this. You have nine men locked up a year ago by *lettre de cachet*, because you believed them to be criminally connected with criminal plots, and because you expected their arrest to check these plots. For a certain time it looked as if the coup were effective, and were justified by the result. In all this, I think, we were perfectly right. Then you come by and by upon what you regard as a great anarchist conspiracy for sedition and murder, and you warn me that you may soon apply to me for sanction of further arbitrary arrest and detention on a large scale. I ask whether this process implies that through the nine detenus you have found out a murder plot contrived, not by them, but by other people. You say, 'We admit that being locked up they can have had no share in these new abominations; but their continued detention will frighten evil-doers generally.' That is the Russian argument; by packing off trainloads of suspects to Siberia we will terrify the anarchists out of their wits, and all will come out right. That policy did not work out brilliantly in Russia, and did not save the lives of the Trepoffs, nor did it save Russia from a Duma, the very thing that the Trepoffs and the rest of the 'offs' deprecated and detested."

I beg to commend these noble and weighty words to this House.

Sir, I said I had a fifth reason to urge in favour of my motion. It is this. This Bill was passed by the Assembly by an overwhelming majority. Almost all the elected representatives voted in its favour. Not only Swarajists but Independents, Moderates, Liberals, and in fact members belonging to all sections of the House except the officials upheld it. The circumstance ought to carry great weight with this House. The country is decidedly against the retention of these dangerous powers in the hands of an alien bureaucracy which is not responsible to the Legislatures and which is irresponsive to popular opinion. Many of you will have to face your electorates very soon to seek re-election to this Chamber. You cannot do so *justly* if you do not voice their feelings in this vital matter. The theory that the elected representatives

are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one. We have no justification to sit here and vote against the wishes of those who returned us. I therefore appeal to you all to vote for this motion. To my official Colleagues I will say one word. I cannot do it better than by quoting the words with which the Honourable Mr. V. S. S. Sastri, commended his Resolution for the appointment of a committee to repeal the repressive laws to this House :

" It would be incongruous with popular liberty which we are confidently hoping that the new Councils will inaugurate ; it will be incongruous with that principle if the repressive laws now on the Statute-book continued there in the present form. In giving such liberties as may seem suitable, in taking such steps as may seem advisable let there be no reservations to the extent that you wish to go. Go ahead bravely and not haltingly. It is the most essential condition of success in this great work. But has no buts ; let there not be a superabundance of ifs. So working we certainly will do what no other people in the world has done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods."

With these words, I beg to move that the Bill as passed by the Assembly be taken into consideration.

THE HONOURABLE MR. J. CRERAR : (Home Secretary) : Sir, I rise to oppose this motion. In doing so, I should like to acknowledge in the first instance the moderate terms in which my Honourable friend has commended his motion to the House. But while I make that acknowledgment, while the Honourable gentleman's arguments were on the whole moderate and certainly phrased in the most courteous and temperate manner, they were by no means consistent in that respect with the character of the Bill he presents. I note further, that in selecting the historical rather than the polemical method, he, wisely perhaps, restricted himself to theories and to his own construction of past events. He has dealt very little with the realities and the facts of the present situation. Well, Sir, before I develop my comments on my Honourable friend's arguments, I should like as a preliminary to invite the attention of the House to an interesting fact. The Bill submitted for the consideration of this House differs in two important respects from the Bill which was originally introduced in another place. It omits from the measures proposed to be repealed the Punjab Murderous Outrages Act, and there is a partial mitigation of the original Bill in so far as it affects the Moplah Outrages Act, perhaps, Sir, I should be thankful for small mercies. But I must remind the House that the original mover of the Bill in another place was by no means content with these innovations in his Bill and he announced his intention at the earliest possible date of introducing a Bill in which the brief reprieve of these legislative victims would be very speedily terminated.

Those changes in the original Bill were the result of a little, perhaps belated but not too belated, examination of the provisions of two of the laws in question, the result of some consideration of the conditions against which they were intended to provide, of some calm reflection on the consequences which would result from their repeal. Sir, I wish that examination, that consideration, that reflection had been more general than it was, that it had been extended further and had been bestowed in the degree which they merited on the other laws which still stand in the Schedule. If that course had been taken in another

[Mr. J. Crerar.]

place, if my Honourable friend opposite had taken that course, I believe that he would not have moved his motion and that this Bill would not now be before the House.

Fortunately, however, the wisdom of the framers of our constitution has preserved for us the opportunity of bringing to bear upon this matter a dispassionate scrutiny, a just balance between ideals of jurisprudence and the hard facts of reality, a sense of responsibility in legislation and a statesmanlike regard for the public interest and the public security ; and it is the special function and obligation of this House to supply these requisites of wise and prudent legislation.

Now, Sir,—and this has been reflected to a great extent in the Honourable Member's speech—criticism of the laws in question has been mainly directed either to general considerations on the arbitrary power alleged to be conferred by them on the executive Government and their repugnance to normal cannons of jurisprudence or to alleged recommendations made by the Committee on the special laws or to arguments regarding the possibility of their abuse. Sir, I will take these in order. The Honourable Member has urged in general terms that these laws are repugnant to accepted cannons of jurisprudence. Now, Sir, I admit that these laws, if literally construed and rigidly administered, undoubtedly confer upon Government the power of committing to custody without the regular form of judicial trial, and I share myself the repugnance commonly expressed to that aspect of them though many of the strictures which have been passed upon them, even from this point of view, require a great deal of qualification. It is only hard necessity which compels us to keep them upon the Statute-book. With regard to the character of the necessity, I should say a few words later. Then we come to the recommendations of the Committee. I venture to suggest to the House that the report of that Committee should be taken as a whole and I have been much impressed, having recently read it and re-read it, by the fact that, though the specific recommendations of the Committee were inspired by a very sanguine view of the circumstances, even as they then stood, the Members of the Committee were nevertheless themselves very much impressed by apprehensions for the future. And indeed the ink was hardly dry on their report when we had the Moplah outbreak. That was followed by a recrudescence of revolutionary activities in Bengal and simultaneously with the recrudescence and development of revolutionary activity in Bengal, we discovered the existence of a Communist conspiracy in India, in connection with which we were compelled in the first instance to use this Regulation. The facts of this conspiracy were then submitted to the regular criminal courts and resulted in what is now commonly known as the Cawnpore Communist conspiracy case. The judgment of the High Court in that case will reveal to Honourable Members that what I claim in respect of the very dangerous Communist conspiracy in India is not a thing of the bureaucratic imagination. I hope, Sir, that Honourable Members will very carefully examine the recommendations of this Committee on which my Honourable friend laid so much stress. As I have said, if the reasoning which was employed by that Committee in leading up to their conclusions is carefully examined, it will be

found that there are many reservations, many apprehensions for the future, which find no place, no reflection, in the measure which is now before the House.

The Honourable Member has quoted from the writings of the late Lord Morley. We are all familiar with the words of that eminent statesman which seldom fail to be quoted in discussions of this character, and I should for my part remind the House of a statement made by Lord Morley which I have already had occasion to quote in this House and which is to the following effect :—

"We found"—he is referring to Regulation III of 1818—"in the armoury of weapons of Government a law, and applied it.....We should have been perfectly unworthy of holding the position we do—I am speaking now of the Government of India and myself—if we had not taken that weapon out of the armoury and used it against the evil-doers."

It is alleged that this Regulation—I think these are the words used by my Honourable friend—is archaic, antiquated, and obsolete. I must point out that it is not more archaic than revolution, that it is not more antiquated than conspiracy, and that it is not more obsolete than assassination.

Well, Sir, these are general considerations, and I do most earnestly implore the House to direct their attention rather to the actual facts of the situation. I wish to make it quite clear to the House that the retention of these laws on the Statute-book is due to a very real sense of a very real danger. I invite the attention of the House to the fact already quoted by my Honourable friend that even the Committee whose report he quotes with so much approval were satisfied of the continued necessity of providing for the object of this Regulation in so far as it is expressly declared to be the security of the British dominions against foreign hostility. They were particularly impressed with the dangers of what they call the "inflammable Frontier". They ignored,—and after all, it is easy to be wiser after the event and events have happened since, with regard to which they were necessarily uninformed,—but they did forget, that the North-West Frontier is not the only frontier of India. Very serious, very persistent attempts have been made to introduce into India propaganda and machinations against her peace and against her security. That is not a mere theory. The case to which I have referred gives abundant chapter and verse for that statement. It is not only to the North-West Frontier, that our attention must be directed. I believe in the light of later knowledge that the Committee in that respect would have revised their recommendation. There is no doubt that the frontier is specially exposed to the dangers of foreign hostility. But, were it not for the vigilance of our officers, were it not for the legislative weapons which we have in reserve, foreign hostility directed against the peace and security of India would pour in at every port, in the form of subversive propaganda, in the form of incitements to murder and rebellion, and in the concrete form of illicit arms and illicit ammunition. If the Communist danger is considered by any Honourable Member as a thing which can lightly be dismissed, I would invite his attention to the present course of events in China. The disturbed conditions there, more particularly in southern China, are, it is a notorious fact, largely due to Communist activities. Now, is it to be supposed that the events that have happened in China can occur without reactions in India? I am not

[Mr. J. Crerar.]

merely suggesting a speculative probability. It is a fact and we have documentary proof of it, that attempts have been made and are still being made by the Communist elements in China to secure connection with India. There are at the present moment certain Communist emissaries still at large. Honourable Members are probably aware that we have accepted an international obligation to receive and be responsible for our own undesirables—by undesirables I mean persons whose activities are likely to be dangerous to the peace and security of their own or other countries. A certain number of these persons—they are very well known Indian Communist agents—are or were recently in Germany and the German Government applied to us to agree to their removal on the ground that their activities were obnoxious and dangerous to the German State. Well, Sir, we are under an obligation to receive those persons on these shores. Are we to allow them to carry out in India activities which in Germany were found to be dangerous to the State, and will this House seriously propose to deprive Government of the means of dealing with persons of this type? Now, Sir, that is a danger, a very real danger. There is another danger. The Honourable Member somewhat light-heartedly stated that he was not concerned with conspiracy in Bengal. He did indeed allege that the action taken by Government with regard to the conspiracy in Bengal was directed against the Swaraj Party, and that its object was the suppression of legitimate constitutional agitation. Both those allegations I must most emphatically deny. The action taken in Bengal under Regulation III of 1818, the action taken by the Governor General in promulgating an Ordinance, and the action taken subsequently in passing the Criminal Law Amendment Act was not directed against either the Swaraj Party or against any other form of constitutional agitation in India. It was directed against a network of terrorist conspiracies, and I think that if we clear our minds of a great deal of prejudice and a great deal of irrelevant theory, there will be found very few persons who can conscientiously get up and say that the action taken by the Local Government, by the Governor General and by the Government of India has not been fully and amply justified by the results. However that may be, I desire to press very strongly upon the House that the existence of revolutionary conspiracy in Bengal is not a danger solely confined to that province. It is not reasonable to suppose when we find ramifications as highly organised as those conspiracies in Bengal undoubtedly were organised, that they should be confined to that province alone. They are not confined to that province alone. Let me remind Honourable Members of the fact which is probably well within their memory as it occurred not very many months ago, that a violent revolutionary pamphlet was found simultaneously at many places in the United Provinces and at many places in the Punjab. Let me remind them of the character of that incitement to violence Here is a quotation from it:

"This revolutionary party has deliberately abstained itself from entering into this terrorist campaign at the present moment even at the greatest of provocations in the form of outrages committed on their sisters and mothers by the agency of a foreign government, simply because the party is waiting to deliver the final blow. But when expediency will demand it the party will unhesitatingly enter into a desperate campaign of terrorism, when the life of every officer and individual who will be helping

the foreign rulers in any way will be made intolerable, be he Indian or European, high or low."

That pamphlet was distributed simultaneously in a very large number of centres in the United Provinces and the Punjab. That does indicate at any rate the probability of an extension of the network of revolutionary conspiracy outside Bengal. Honourable Members have seen the recent report of a daring outrage—the robbery of a train in the United Provinces. I must be extremely careful in referring to the circumstances of that offence because the matter is now under investigation, but they give us very good ground for supposing that it is the work of revolutionaries. Now, there are other indications of that kind which I should like to be in a position to lay before the House but I cannot for obvious reasons do so. The danger of the extension of this evil outside Bengal, the area where the Bengal Criminal Law Amendment Act is in operation, is a very real one, and that reason alone should in my opinion constitute a sound ground for the retention of Regulation III upon the Statute-book.

I will not dwell on the alleged abuse, actual or potential of the law because I frankly admit that my Honourable friend did not base his case very seriously on either. I heard it said in another place that the Committee which was appointed by the Bengal Government to examine cases of action taken under the Regulation and under the war legislation found that five per cent. of those persons were innocent. I venture to say that this is very typical of the loose kind of criticism which has been directed against the administration of this Regulation. This particular statement is entirely remote from the facts. What the Beachcroft and Chandavarkar Committee actually said was this:

"The total number of cases examined and advised on by us is 806. Of these 100 relate to State prisoners dealt with under Regulation III of 1818; 702 to internees under the Defence of India Act; and four to persons dealt with under the Indian Ingress Ordinance. In six of the total number of cases examined by us, we have advised Government that there are not sufficient grounds, in our opinion, for believing that the parties concerned have acted in a manner prejudicial to the public safety or the defence of British India, and that, therefore, they should be unconditionally released."

I invite the special attention of the House to the language employed in the last sentence "prejudicial to the public safety or the defence of British India." This is language drawn from the rules under the Defence of India Act, and it is therefore a reasonable presumption that the cases referred to by the Committeee were cases of action taken under these rules. If that is so, then it follows that of the 100 cases under Regulation III of 1818 which were examined, there was not a single case in which the Committee found that the action of Government had not been fully justified. Then, Sir, the Honourable Member referred to the occurrences in Malabar. He asked whether Government found that they required the use of the Regulation in that case. I am astonished that an argument of that kind should be laid before the House by an Honourable Member from the Madras Presidency. The fact is, as has been explained on more than one occasion, that the Madras Regulation was used, and used with great effect, in connection with the Malabar rebellion. Let me remind the House what the circumstances were. It is well known that large numbers of Hindus were attacked by Moplahs. Outrages of the most dreadful character were perpetrated and large numbers of

[Mr. J. Crerar.]

unoffending persons were forcibly converted to Islam. A considerable proportion of the perpetrators of these crimes were sentenced, but when the time for their sentences was due to expire, a very serious question arose as to whether they were to be allowed to return to the scene of their former outrages. I ask Honourable Members to endeavour to imagine what the situation was. During the period which had elapsed since the rebellion, every endeavour had been made by Government to promote reconstruction. The villages were beginning to come back to the normal state of things once more and the victims of these horrible outrages were beginning to receive at least some alleviation from time. The return of the original perpetrators of these crimes would have been fatal to that process of reconstruction. It would have been fatal also for those communities who were so slowly and so pitifully recovering from their disasters that the persons originally responsible for their troubles should be returned to their midst. Therefore the Government of Madras decided that the authors of these crimes should not be allowed to return to their homes. They were sent under the most lenient form of restraint possible to another part of the Presidency under the powers conferred by the Madras Regulation. The results have been entirely justified and yet the Honourable Member from Madras tells us that the Madras Government did not find the Madras Regulation of any avail in connection with the Malabar rebellion.

THE HONOURABLE MR. V. RAMADAS PANTULU: May I explain, Sir. What I said was that the absence of the Regulation on the Statute-book would not have handicapped them. I did not say that they did not use it. My question is: Why did they use it. There was no necessity for it.

THE HONOURABLE MR. J. CRERAR: I do not quite appreciate the Honourable Member's point. He says that the absence of this Regulation on the Statute-book would not have handicapped the Madras Government. I have already explained that the Madras Government used that Regulation effectively in securing an object which could not have been attained by any other conceivable legal means. I now return to my original point. I have acknowledged the moderation of the Honourable Member's language but I still return to the point that his Bill is not a moderate Bill.

It appears to me that neither his argument nor mine have yet penetrated into the root of the matter. The real issue before the House is one which must be entered on with complete sincerity and candour.

The question has been debated on innumerable occasions, and on a careful examination of these discussions I have been compelled to the conclusion that the real object of this Bill is not to improve the Statute-book. Its object is to impair the power and weaken the responsibility of the Government which is at present charged with the duty, and burdened with the obligation, of maintaining peace and order in this country—the most elementary conditions of any form of civilised life, the most necessary conditions of any kind of political progress. That power and responsibility, that duty and obligation, are charges which must be accepted and vindicated not more by the present Government than by any conceivable future Government of India. No honest

Government whether in its own interest or in the interest of the peoples committed to its charge or in the interest of its successors in title and liability, can possibly be met with an aggression of this character and omit to repel it by every means in its power.

12 Noon.

THE HONOURABLE DR. DWARKANATH MITTER (West Bengal: Non-Muhummadan): Sir, I beg to move the following amendment to the original Resolution:—

"That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. K. C. Roy, and the mover, and that the presence of five of the Members of the Committee shall be necessary to constitute a quorum."

Sir, not many words are needed from me in order to commend this Resolution to the acceptance of the House. You have heard the Honourable Mr. Crerar say that the Report of the Repressive Laws Committee should be examined as a whole. That is a report which after a good deal of consideration the Committee arrived at, after a long discussion among the Members themselves, and it is not possible that in this House we can in the sitting of a day or a few hours examine the recommendations of that Committee. In asking for the acceptance of this amendment I am not asking the Government to commit themselves to any principle underlying the Bill. My object, Sir, is to focus the attention of the House on the principle of the Bill and that is a function which I submit, Sir, the Select Committee can very well discharge. There is an apprehension in some quarters that when a matter is referred to a Select Committee, it means that the principle of the Bill is accepted. I submit, Sir, that that is not so, if I may just refer in this connection to the procedure of the House of Commons as stated in a book written by Mr. Joseph Redlich with an introduction by Sir Courtenay Ilbert who for some time was the Law Member of the Government of India. He states at page 187 of volume II of that book that—

"the task of a Select Committee is accordingly investigation and nothing more. It stands in the sharpest contrast to the work of a Committee of the whole House, while such Committees are indirect aids to legislation inasmuch as they arrange the material upon which the legislative decisions are effectually based and they help to focus the ideas of the House upon matters of principle or to work out the technical details of some legislative course of action the principle of which has been accepted."

Therefore I want to make it clear that by asking for the acceptance of this amendment I am not asking the Government or any Members of the House to commit themselves to the principle underlying this Bill. I do not see much strength in the reasoning of my Honourable and learned friend Mr. Ramadas that the Bill has been passed by the majority of the Legislative Assembly. The major section of the Assembly are not tolerant of the opinions of the Members of this House, and I do not see why we should not treat their opinions with the same respect with which they treat our opinions. I am therefore prepared to ask the attention of the Honourable Members of this House to this point that there should be an independent examination of the whole question by a Select Committee, a representative Select Committee, consisting of the Members of Government and of the representatives of the several

[Dr. Dwarkanath Mitter.]

provinces. The question is one, Sir, of very great importance. The question is whether the ancient Regulations of the different Provinces—the Bengal Regulation of 1818 and the similar Regulations in Madras and Bombay—should still be retained on the Statute-book. Of course I have an open mind on the question. If a Committee after an examination of the Report of the Repressive Laws Committee are satisfied that there is no need for their repeal, the Committee will certainly be able to report that to this House. If reference to Select Committee does not mean that the principle is accepted, I do not see, Sir, any harm in a Select Committee meeting and considering the question whether, having regard to the conditions which are prevalent in the different provinces and after collecting the opinions of Local Governments—I do not know if these opinions have yet been collected—there is need for their repeal. It may also be, as I find from the proceedings of the Legislative Assembly of the 19th March 1925, that the Honourable Sir Alexander Muddiman was prepared to accept some of the amendments which were proposed in the course of the discussion on this Bill, that the Government may reconsider the matter afresh on the report of the Select Committee now proposed. There was an amendment which was proposed by Mr. Rangachariar, one of the Members of the Legislative Assembly, and I find that the Government were prepared to accept the amendment with regard to the Bengal Regulation.

THE HONOURABLE MR. J. CRERAR : I must point out that the Honourable the Home Member expressed a certain view with regard to these amendments but at the same time pointed out very clearly that he was unalterably opposed to the Bill itself.

THE HONOURABLE DR. DWARKANATH MITTER : These are all matters which, as the Honourable Mr. Crerar will realize, may be discussed in the Select Committee, and if the Select Committee ultimately arrives at the decision that there is no need for repeal, they will so report to this House. I am only asking for an examination of the whole question by a Committee consisting of representative Members—an examination which cannot be done in one sitting or in a few hours. These are the reasons, Sir, which make me submit to the House that the Committee which I have suggested is a representative one. We should get on behalf of the Government the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Dadabhoy, representing the Central Provinces, the Honourable Dr. Sir Deva Prasad Sarvadhikary and myself, representing Bengal, the Honourable Mr. Karandikar representing the Bombay Presidency, the Honourable Saiyid Raza Ali representing the United Provinces, the Honourable Mr. Ramadas representing the Madras Presidency, and the Honourable Mr. K. C. Roy representing the Punjab. (Laughter.) I submit, Sir, that the Committee is a representative one. I am also quite amenable to any suggestion, if it is made, with regard to the addition of any other Honourable Members to this Committee. I might suggest, for example, as this is a question affecting the Frontier also, that if the Honourable Mr. Thompson is willing, his name might also be added to this Committee.

THE HONOURABLE THE PRESIDENT: Has the Honourable Mr. Thompson anything to say with regard to the suggestion that his name might be added to this Committee ?

THE HONOURABLE MR. J. P. THOMPSON: If the House decides to appoint a Select Committee, I should be proud to serve on it.

THE HONOURABLE THE PRESIDENT: Amendment moved :—

"That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Dr. Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourab le Mr. K. C. Roy, the Honourable Mr. J. P. Thompson, and the mover, and that the presence of five of the Members of the Committee shall be necessary to constitute a quorum."

The debate will now confine itself to that amendment until it has been disposed of one way or the other. That is to say Honourable Members now speaking should confine themselves to the question as to whether this Bill should go to a Select Committee or not. Before the debate is resumed, I think I should remove from the minds of Honourable Members any possible misapprehension that may have been caused by the words that fell from the last speaker in moving his amendment. He suggested to the House that the acceptance of the motion that the Bill should be referred to a Select Committee did not commit the House to the principle of the Bill. That is a statement which is not in accordance with the practice or the rules of this House. He quoted as a precedent the practice of the English Parliament, but, as Honourable Members are aware, the Committee stage in the House of Commons is not by any means the same thing as the Committee stage in the Indian Legislature. It has been accepted, and definitely laid down in this House as well as in the other Chamber of the Indian Legislature, that the motion to take a Bill into consideration and a motion to refer a Bill to a Select Committee or a Joint Committee commits the House to the principle of the Bill. It is only a motion that the Bill be circulated for the purpose of eliciting opinion thereon that does not at the second reading commit the House to the principle of the Bill.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I will only confine myself just at present to the amendment according to your ruling. I oppose this amendment. I oppose it because it will commit the House to the principle of the Bill and secondly, as I shall point out presently, it will serve no useful purpose. You, Sir, have already referred to the Parliamentary practice to which reference has been made by my friend the Honourable Dr. Dwarkanath Mitter, and I shall therefore not take up the time of the Council by any further reference to that matter. This Bill before us is of a very important nature and character. It touches a very broad principle. The root of the Bill consists of many ramifications which have to be carefully considered. I for one would not like to serve on this Committee, because by my acquiescence to serve on this Committee, I would be leading the House to believe that I am inclined in any way to accept this Bill with some modifications that may be proposed and hurriedly consi ered by the Select Committee. You, Sir, have explained fully that when a Bill

[Sir Maneckji Dadabhoy.]

is referred to a Select Committee the House accepts the principle of the measure. I understand, Sir, that the same ruling was given in the other House by Sir Frederick Whyte and I do not desire that any departure should be made from the established practice in this direction and that in future there should remain no doubt on the subject.

Now, as regards the Bill itself, as regards the suggestion for the Select Committee, assuming that we go to a Select Committee and consider the measure, has my Honourable friend any guarantee that the other House is going to accept the amendments proposed by this House ?

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Why do you want the guarantee ?

THE HONOURABLE SIR MANECKJI DADABHOY: Probably you have not read the proceedings of the other House, but on two occasions Sir Alexander Muddiman in order to meet that Assembly proposed two most reasonable amendments and the Assembly contemptuously disregarded them.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): The remedy and result would be quite another if that course was followed here.

THE HONOURABLE SIR MANECKJI DADABHOY: Well, there is every reason for the presumption that that course would be again followed. The very fact that a large majority in the Assembly refused even to consider the amendments that were proposed by Sir Alexander Muddiman on behalf of the Government and to which a large body of other independent members might have also given their support, shows conclusively the temper of that Assembly, and I therefore say that it would serve absolutely no useful purpose to go to a Select Committee and ask them to modify the Bill to any extent or even to re-consider it. Further, what is there to prevent my Honourable colleague Dr. Dwarkanath Mitter if his real object is, and as I understand the object of many Members is, to make some necessary modifications in the Bengal Regulations and other repressive Acts to bring in a separate amending Bill ? Don't you think that could be done more appropriately by first rejecting this Bill and then bringing in an amending Bill ? If my friend Dr. Mitter introduces a Bill to make any alterations or modifications in the Regulations or the Seditious Meetings Act or section 12 of the Punjab Murderous Out rages Act I am sure this Council will be exceedingly pleased to consider that Bill on its own merits. I personally think that it would be confusing the issue before this Council if we allow any amendments to be passed at this stage. But if Honourable Members here desire that we should make the change, and the change will be a necessary change in those Regulations, I am quite agreeable that we should consider the matter, but that can be done more efficiently and appropriately by a separate Bill which may be brought by any non-official Member of this Council, and the whole question may then be thoroughly threshed out. I submit that this view of mine will commend itself to Honourable Members here. Honourable Members should bear in mind also, when contemplating a Select Committee, that this Council has now 13 or 14 days of existence left; our life is limited; we have got only 14

working days. I do not think it will be possible within that short time to consider carefully all the amendments which some of my Honourable colleagues here may suggest and that we shall have time enough to pass this Bill in a modified way and send it to the Assembly. I also think that it would not be fair to our successors in office that on the eve of our extinction we should commit that Council, our successors, to any policy which may be dictated by this Council. I think it would be more advantageous, it would be more practical, and it will be a prudent course that we at present dispose of the Bill, either pass it or reject it, and that any further amendments that may be suggested may be considered by way of a separate Bill. Sir, I therefore oppose this amendment.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHKARY: Sir, I understand you to rule and direct that any observations that may now be made should be confined to the proposal for a Select Committee. That being so, I take it that Honourable Members who speak on this amendment will have another opportunity of speaking on the Bill itself, in case the motion for a Select Committee is rejected.

THE HONOURABLE THE PRESIDENT: Undoubtedly.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Sir, I have been trying, as I always try, to follow with care my Honourable friend Sir Maneckji Dadabhoy with regard to considerations of legal questions and legislative matters.

I fail, however, to follow him when he ruefully asks us, as condemned men in the cell are often reminded of the limited number of days that are before them, not to commit this Bill to a Select Committee because it will not be possible for the Select Committee work to be done at all during our remaining mortal days, at least not done as well as he would desire it to be done. In the same breath and in the following sentences he warns us against committing our successors in this House, and I am sure he will be one of them, to a policy that might not commend itself to them though approved of by us. If the Select Committee and its object fail for reasons that he apprehends and has adduced and therefore die a natural death, I fail to see how this Council can commit its successor to any policy. Therefore, that is a sort of argument which I trust will not weigh with the House in considering whether this Bill which had no opportunity of being considered in Select Committee at all in the other House should not be committed to a Select Committee here. Only the other day, in connection with a Bill for which leave was given by this House the same difficulty about the short life of this Council was brought out and yet the House did not hesitate to admit the Bill. Later on, that Bill and another Bill that was allowed to be introduced this morning will, I take it, be committed to Select Committees and will, I have no reason to doubt, be dealt with as well as this Council in its wisdom and light may be able to do.

Sir, you from the Chair have controverted the proposition that my Honourable friend Dr. Dwarkanath Mitter on the authority of Dr. Redlich, one of the greatest Parliamentary writers, laid down with regard to the scope of Select Committees. If, Sir, that is to be taken as your ruling, I must bow to it with the respect that it deserves. If, however, it is open to question I should certainly claim for the position.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member is again trying to raise a misapprehension which I tried to remove just now. It is a ruling which I have given—not merely my own ruling but a ruling of my predecessors, established by practice in this House and in both Chambers of the Indian Legislature since they were created. The matter is not open to discussion and I must ask the Honourable Member to refrain from saying anything likely to re-create the misapprehension which I attempted to remove just now.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: If that is a ruling there is an end of the question. If it was not, it would be open to many a suggestion for creation of Conventions on Parliamentary lines that could have been made. Even if that was not to be so, I say Government already stood committed to the broad principles of the Bill subject always to necessary limitations when it accepted the report of the Committee presided over by Sir Tej Bahadur Sapru. The question of acceptance of policy, the larger policy, therefore, does not and cannot now arise. There are always possibilities of introducing safeguards such as the Government have indicated in the Select Committee. Reference has been made to the "reservations" and "apprehensions" on the part of the Repressive Laws Committee, particularly with regard to questions connected with the Frontier and cognate matters. I do not think there has ever been the slightest objection on the part of any one that so far as those matters are concerned Government should continue to have the powers that it at present possesses.

THE HONOURABLE MR. J. CRERAR: I think it is hardly correct for my Honourable friend to say so. It was stated in another place with reference to the Punjab Murderous Outrages Act that, if that Act was excluded from the Schedule of the Bill, a further Bill would be brought with the intention of repealing that also.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: I have nothing to do with the reserved mentality or even the express mentality of isolated Honourable Members to the contrary in this House or in another place, and what they propose to do in certain events is a matter that does not concern us for the moment. If Mr. Patel had not been translated into the Honourable Mr. Patel and if in another capacity he had brought forward a Bill with which he had threatened Government, that would be the occasion for Government to take care of themselves, and I have not the slightest doubt that this House would have been glad to assist Government in maintaining that position within reasonable limitations. But for my present purpose I say those are matters with regard to which I do not think that there is the slightest doubt in the mind of any right thinking man that the Government should continue to be armed with necessary powers for dealing effectively with any questions arising in connection with the Frontier, and in the category "Frontier" I am prepared to include ports and other frontiers than the North-West Frontier to which the Honourable Mr. Crerar has referred. That matter is one that could well be provided for by the Select Committee in connection with the three Regulations that find a place in the Schedule. The reservation and apprehension of the Repressive Laws Committee would be thus fully respected.

There are other matters which do not strike one now, that would strike one more round the committee table, with regard to which it would be possible to make provisions to meet the reasonable Government point of view and to meet the points of view of the Repressive Laws Committee which the Government accepted, the point of view of the people who it is well known are always insistently pressing for the repeal of unnecessary and obnoxious legislation, would also be thus met, I shall not call it a pledge, but the understanding which the Government did arrive at at the time should be given effect to and Government should themselves have devised a measure and not have waited for a Bill of this kind only to oppose it generally. An amendment with regard to these matters has been long overdue. This amendment of my Honourable friend for the appointment of a Select Committee, even at this stage recognises, and I am prepared to recognise, that there are ways and means by which the Government point of view could be met as far as possible, and provision could be made even in this Bill for a continuance of those powers which the Government consider a *sine qua non* for discharging their responsibilities. Such an attempt was made though unsuccessfully in the other House by the introduction of safeguarding amendments, without objection from the Chair or the Government. And such an attempt and move would be successful in this House with the acceptance of a Select Committee, even within the few remaining days of our life. If the Government are not prepared to agree to this amendment there would be very little left for some Members at all events but to vote for consideration of the Bill as proposed and to ask for leave to bring in amendments in the House even at this stage.

THE HONOURABLE MR. G. A. NATESAN: (Madras: Nominated Non-Official): Sir, I should like to say that I would desire to support the amendment of my Honourable friend, Dr. Mitter. I should like also to give what I consider to be the reasons which in my opinion are sound and which I trust, in the judgment of this House, at any rate of many Members of this House, will be considered to be sound. It seems to me that some of the observations with which the Honourable Mr. Crerar closed his speech and some of the reasons given by him make out a strong case for referring this matter to a Select Committee. So far as I am concerned and those who are placed in a position similar to myself are concerned,—I had the honour of being invited to give evidence before the Repressive Laws Committee and I was one of those who gave evidence that some at least of the laws which are scheduled here should be repealed. It now transpires that there are other circumstances which have to be taken into consideration and considered carefully not only by the Government but also by the non-officials, and I think that it is quite proper and it would be a very legitimate and fair demand that non-official members should make because this Bill which comes to us in this form for the first time did not, in the opinion of officials and non-officials, receive that amount of adequate and expert consideration which a Bill of this nature ought to have had in the other place. I certainly think that this House, in view of the expectations formed of it, that is, of the general expectation that it is to scrutinise very carefully all legislation that comes from the other House, has a right to demand that a full, adequate and ample opportunity should be available to it to discuss it. It is quite possible, without in the least giving up the principle, that Government may be able to see that there are certain things scheduled which might go without

[Mr. G. A. Natesan.]

danger to the State and it is equally possible they might be able by a further set of evidence and by some of the considerations which have been adduced by the Honourable the Home Secretary to convince the members of the Select Committee that certain safeguards must be accepted before they could agree entirely to accept the Bill as it is. I do not think I am drawing upon my imagination but I may state an obvious fact, namely, that the composition of the proposed Select Committee and the responsible character of some of the non-officials placed on it, must be a strong guarantee that it will be able to consider whatever reasonable proposals are put forward to see that the inherent power which any State should possess to meet an emergency ought not to be denied to it so lightly. I would also point out that I do not share the apprehension of my Honourable friend Sir Maneckji Dadabhoy that if we do make some amendments in this House and the matter be referred to the other House the amendments would not be accepted in the other place at all. I would ask him to remember that a considerable time has elapsed since this question was discussed in the other place and it is a very obvious fact, a fact over which most of us rejoice, that the temper of the other House, at least of a considerable body of members there, has changed. (*Sir Maneckji Dadabhoy*: "Question"). I am stating an obvious fact. Those who came to destroy and demolish are now helping in the work of construction. Those who came to wreck the Councils are now guarding their best interests. Further, the leader of the Swarajist party in accepting a place on the Skeen Committee has stated that the policy of his party is to adjust itself to altered conditions. So, it is possible that if the Select Committee now presents a new set of facts the other Chamber may adjust itself to altered conditions. Those who came to non-co-operate are now co-operating. I certainly do not think therefore that if this House makes certain recommendations and suggestions through the Select Committee, they will be treated with contempt or in the spirit which my Honourable friend Sir Maneckji Dadabhoy apprehends. I also venture to state that there is absolutely no difficulty in getting the Select Committee to get its work done before the dissolution of this Council, because other Select Committees elsewhere have considered even more important questions, have held their sittings and presented their reports, within an equally short time. I do not see therefore any objection to supporting the proposal to refer this Bill to a Select Committee. I think, without giving up the principle in any way for which the Government stand, the fair course to adopt, with a view to giving non-officials the opportunity to make up their mind, is to refer the Bill to a Select Committee and I therefore cordially support the amendment of my Honourable friend Dr. Dwarkanath Mitter.

THE HONOURABLE MR. G. S. KHAPARDE: (Berar: Nominated Non-Official): I wish to oppose this proposal for appointing a Sub-Committee or a Select Committee as they call it for reasons very different from those that have been urged up to this time. My reason is this. On the very first day on which this Council met to transact business nearly five years ago, this matter was brought forward by the Right Honourable V. S. Srinivasa Sastri and the proposal was to appoint a Select Committee and I then opposed that Select Committee, I said that the Select Committee would never do any

good at all. All that it will do is to go over the matter over and over again, to chew the cud and to move in circles. Oftentimes their minds move in a groove and ultimately they come back to the same point and nothing is decided. As an example of it I can state this case. On that day I was the only unfortunate man who opposed that committee. Speaker after speaker got up and applauded the proposal put forward by the Right Honourable V. S. Srinivasa Sastri. They were very glad to associate themselves with him and they gave me the parting kick. They told me my opposition to the Select Committee was very very bad indeed. My Honourable friend next to me was one of those gentlemen who administered that kind of punishment to me. It is a pleasure now to see that he is also opposed to the formation of this Committee. I believe that one of the things this Select Committee will do is to shelve the matter. If you want to shelve a matter, you appoint a Select Committee. It takes years and years and at the end nothing happens. The Right Honourable Srinivasa Sastri's proposal was very much applauded that day and a great deal of encomium was showered on him and we know what the Select Committee did. After five years we are still where we were in February 1921. On top of that my friends again want a Select Committee. That Select Committee was a very strong one presided over by my friend Dr. Sir Tej Bahadur Sapru and there were also other eminent persons on it. My friend who spoke just now appeared as a witness. The whole thing began in noise and fury and ended in nothing. If you have another Committee it will go over the same ground. There will be many more people examined and at the end you will find that we come back to this point, whether the Bill should be considered at all, whether it is worth while taking it into consideration. So I think that the Select Committee will serve no good purpose at all. The personnel of this Committee may be quite good. One Member of this Council is as good as any other Member. I may represent Afghanistan for the matter of that. It does not matter. My objection is that this Select Committee will not advance matters. The argument has been put forward that Government have already accepted the principle of the Bill. I wish I could support that. It suits me very well but on the day that Government consented to that Select Committee this Bill was not in existence at all, was not born. It could never have been dreamt of by anybody. All that was dreamt of in those days was that these proposals were intended to bring about unity, were intended to forget the past. We thought we were writing on clean sheets, on a clean piece of paper. Those were the high hopes that we started with. How has it all ended? It has ended in a funny way. At present all I have got to say is that if this Committee is brought into existence it will serve absolutely no purpose. It will not carry us beyond the horizon that we can see. Probably the whole thing will be forgotten altogether. I therefore strongly oppose the formation of this Select Committee.

THE HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): I rise to speak at this stage so that I may have the advantage of speaking before the Honourable Mr. Crerar. The record of the activities of Government since the inauguration of the reforms in the beginning of 1921 is not one of which the Government can have any reason to be ashamed. Sir,

[Saiyid Raza Ali.]

indeed I will go further and say that the conciliatory attitude displayed by Government ever since is one of which they can justly, having regard to the difficulties with which they were confronted, feel proud. I do not propose, Sir, to detain Honourable Members by reading out quotations from the remarkable speech of His Royal Highness the Duke of Connaught or the touching appeal made by Lord Chelmsford in the beginning of 1921. Let us examine and see what has been the output of the legislative activities of the Government of India. I do not propose to go into the merits of the speech of the Honourable Mr. Ramadas since the occasion for that has not yet come. But, Sir, I may mention in connection with the amendment which is before the House that the Honourable Mr. Ramadas pointed out that there were 13 Acts which were examined by the Select Committee that was appointed in 1921. If I understand my Honourable friend Mr. Ramadas correctly, he proceeded to say that no action was taken by the Government of India after the submission of the Committee's Report. Am I right ?

THE HONOURABLE MR. V. RAMADAS PANTULU : No. With regard to these particular Acts which the Bill now seeks to repeal, no action was taken.

THE HONOURABLE SAIYID RAZA ALI : I am very glad that the point has been very prominently placed before this Chamber. On looking into the Acts which were passed in the Delhi Session in 1922, it would appear that out of the 13 Acts which were examined by the Select Committee presided over by Dr. Sapru (as he then was) no less than 6 have been repealed *in toto* and one in part. The Acts repealed by the Legislature are the Bengal State Offences Regulation of 1804, the Madras Regulation VII of 1808, the State Offences Act, 1857, the Forfeiture Act, 1857, the Defence of India (Criminal Law Amendment) Act, 1915, and the Anarchical and Revolutionary Crimes Act, 1919. Of the seven Acts which were repealed, one was repealed in part in 1922, namely, the Indian Criminal Law Amendment Act of 1908. The Honourable Mr. Crerar will thus realize that the achievements of the Government, and especially of his Department, are such that they can easily face going to a Select Committee with a stout heart. Sir, after all what is the meaning of referring a Bill to a Select Committee ? You have, Sir, given an emphatic ruling, and very rightly, following your predecessor, that the reference of a Bill to a Select Committee commits the House to the principle of that Bill. That no doubt, Sir, is so and I fully realize that if this Bill goes to the Select Committee, this House will commit itself to its principle. But, Sir, let us see what is the principle underlying the Bill. The principle is not that the Honourable Mr. Crerar or the Home Department of the Government of India are thereby pledged to repeal *in toto* all the five Acts that have been mentioned in the Bill. In fact the principle is only this, that all these five Acts which are included in this Bill will be carefully considered, and if after a close consideration of the present conditions in reference to all these Acts it is found necessary that some one or more of these Acts should be modified, the Select Committee will no doubt make a recommendation that that amendment be made accordingly. That is very different, Sir, from taking it for granted that the moment we send this Bill to the Select Committee it

will be obligatory on the Select Committee to make a recommendation repealing all the five Acts or the majority of them. That, Sir, is my reply to the criticism that it would be inconvenient to send this Bill to the Select Committee.

Now, as has already been pointed out, the Acts which this Bill proposes to deal with are of such importance that it is not possible for a House of 60 gentlemen, though very eminent as regards their knowledge of the law, to give that careful consideration to its provisions which can only be done by a small Committee of 8, 9 or 10 persons. Important questions arise. The present state of the country has got to be examined. Various reports have got to be looked into. It has got to be seen what are the needs and what may be the needs of the various provinces where these Acts are in force or to which provinces they may be extended by the Governor General in Council. All these are questions, Sir, which can be satisfactorily considered by a Select Committee only.

In passing, Sir, I may make a brief reference to the objection raised by my Honourable friend, Sir Maneckji Dadabhoy. He thought it would be dangerous to adopt this course inasmuch as if any recommendations are made by the Select Committee which are accepted by this House, it may be that the other House would not agree to those proposals, which would then bring this House into conflict with the other Chamber. Sir, if this consideration were to guide our actions, it follows that on no occasion can this House revise or amend legislation which is sent to us by the other Chamber.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I rise to a personal explanation.

THE HONOURABLE SAIYID RAZA ALI: I believe, Sir, my Honourable friend will get an opportunity towards the end, if there is any point of substance. It follows, Sir, that my Honourable friend's objection, if held to be valid, takes away the jurisdiction of this Chamber to revise or alter Bills sent up to it by the other House. The same objection can apply to any Bill which is sent up at any stage, but he has raised a point which has some force in it, and that second point of my Honourable friend is this. He regrets fully and sorrowfully reminded the House that there are only 14 days more of life left to us after which we have to face an election.

THE HONOURABLE SIR MANECKJI DADABHOY; I never regretted it, Sir.

THE HONOURABLE SAIYID RAZA ALI: That was my impression, Sir. Now I am very glad to know that my Honourable friend does not at all regret that the election is coming soon. I congratulate him on that attitude, Sir, there is some force in the point raised by my learned friend. To meet that point I propose that the following words be added at the end of Dr. Mitter's amendment:

"and that the Committee do submit their report on or before the 10th September 1925."

I will just pass over in writing the words I propose to be added to the amendment to you, Sir. If the Select Committee make a report on or before the 10th of September on which date I understand this House will be sitting, there will

[Saiyid Raza Ali.]

be ample time left to this House to go through the entire Bill carefully and the Bill, if passed in any modified form which will commend itself to the wisdom of this Chamber, can be sent down to the Legislative Assembly and the Legislative Assembly can be invited to concur in the amendments made by this Chamber. Sir, political prophesies are always unwise and therefore I have no desire to play the role of a political prophet. I for one do not know what will be the reception exactly meted out to our amendments, if any, by the other Chamber. But let me say, Sir, this much, that I have too much faith, too much confidence in the robust commonsense and its latest phase displayed by the Legislative Assembly to suppose that it will act in an unreasonable manner. It is a body that consists of some of the most distinguished men in the country and it is a sign of growing grace in that Chamber that it is becoming day by day more and more reasonable. Is there any reason to suppose that they would invite a conflict with this Chamber by summarily rejecting any amendments incorporated by us ? Is there any reason to suspect that they would do that ? There is just only one word on the question of drafting which I beg leave to say. If the words that I propose to be added to Dr. Dwarkanath Mitter's amendment are accepted by this Chamber, it will be necessary to strike out the word " and " before the words " and the mover " in the third line from the bottom in the amendment of my Honourable friend.

Sir, I would close with an appeal. This unreasonable, at any rate painful, fight between a section of the political leaders of the country and the Government has been raging unnecessarily long. I have read the debates in the other Chamber very carefully and I was pained to see that on every vital point there was a difference of opinion between the Government and the majority party in the Legislative Assembly. Sir, after all, have not events happened since the 24th of March when we dispersed in Delhi which encourage us to hope that, whatever might be said of the Government's angle of vision, the angle of vision of those who entered the Legislative Assembly with a view to destroy it has considerably changed ? That, Sir, is a stern fact which has to be acknowledged ; and if it is a fact, what is the response that the Government propose to make to this change in their angle of vision ? Sir, I submit that the least that the Government can do, and if I may say so, should do, is to consent to this Bill being sent to the Select Committee. I need hardly say much about the personnel, excepting one, namely, myself. There are on that Committee people who will be of the greatest help and assistance to the Government. When I excepted myself, I did not mean to say that there would be any lack of willingness in me to assist the Government but perhaps there are others better qualified to serve on that Committee. Why distrust this Council, why distrust the men whom Dr. Mitter proposes to put on the Select Committee and why, may I ask, Sir, distrust the other Chamber ?

THE HONOURABLE SIR MANECKJI DADABHOY : I rise to a point of order, Sir. Is my Honourable friend speaking on the amendment ?

THE HONOURABLE SAIYID RAZA ALI : Sir, I am speaking on the amendment, the acceptance of the proposal to send this Bill to the Select Committee. Will Government be fair to that influential body in the Legisla-

tive Assembly which, it appears, is now desirous of co-operating with the Government, though it will not confess that openly? With these words, Sir, I support the amendment of the Honourable Dr. Dwarkanath Mitter.

THE HONOURABLE THE PRESIDENT: Amendment moved to the amendment of the Honourable Dr. Dwarkanath Mitter:

"That in that amendment the word 'and' before the words 'that the presence of' be omitted and at the end of the amendment the following words be added, namely:

'and that the Committee do submit their report on or before the 10th September 1925.'"

THE HONOURABLE MR. K. C. ROY: Frankly speaking, Sir, I dislike the Bill, and it is precisely on that ground that I suggest that the Select Committee should be appointed. If the House agrees to the appointment of a Select Committee, it will be able to reshape the Bill and possibly make it acceptable to the Honourable Leader of the House and to the Honourable Mr. Crerar. May I remind the House that this Bill was carried through the Legislative Assembly at breakneck speed? It has not had the advantage of a Select or Joint Committee. It was a purely party measure designed to create political effect. The Bill was not circulated; no public opinion was elicited; the Provincial Governments, which are primarily responsible for the good government of this country, were not even consulted and their views are not before us. I do not see any sign to convince me that the report of the Repressive Laws Committee was even taken into consideration by the other House. Then, Sir, there is the point on which you have given your ruling and which the House will no doubt unhesitatingly accept. I for myself accept the ruling which you have given; but what is the net result of that ruling? It commits the House to accept the principle. It does not commit the House either to decline or to accept the Select Committee's Report. It does not commit the House to pass the Bill. What the net result of your ruling will be, is that in regard to the final shape of the Bill the House is at liberty to do what it likes. Under the circumstances, I hope the Government will see their way to accept this amendment.

THE HONOURABLE MR. J. CRERAR: Sir, I think it is desirable that I should at this stage explain very briefly the attitude of Government towards the Honourable Dr. Dwarkanath Mitter's amendment. There are two points which I wish to make perfectly clear to the House. In opposing this Bill, I do not desire to be construed as affirming that every measure contained in the Schedule to this Bill is the last word in legislation. I do not desire to be understood as contending that a Regulation which was made in the year 1818 could not be improved upon both in form and in substance. That is the first point. The second point that I desire to make is this. I think it is clear from the attitude of the Honourable Members who have moved and supported this amendment respectively that they are perfectly willing to concede that, in certain special circumstances, Government ought to be armed with special powers. And I think that I can also infer that they would be prepared to show the necessary sense of responsibility, the necessary regard for the difficulties and the responsibilities of Government, by giving to the full such powers as Government can on an examination of the case claim to be required. I think, Sir, that I have put the case of the Honourable Members who have supported this amendment fairly. Well, if I am not in a position to respond to that

[Mr. J. Crerar.]

attitude on the part of Honourable Members whose fault is it, I ask ? It is the fault of the framers of the Bill which is before the House. Let me explain exactly what I mean. You, Sir, have given a ruling as to what is the precise implication of an acceptance by this House of a motion to refer to a Select Committee,—we should be committed to the principle of this Bill. Now, my point on that is that the only principle of this Bill is repeal. My Honourable and learned friend, whose commendation of the administration of the Government of India, and particularly of the Home Department, I desire very warmly to acknowledge—my Honourable and learned friend has endeavoured to impress the House with the view that repeal is not the principle of this Bill. He says that the principle of this Bill is that the Acts in the Schedule should be examined and modified. If that indeed is the case, the Bill is one of the most extraordinary instances of draftsmanship that has ever come to my notice. What does the Bill say ? It says :

" ..... It is expedient that certain special enactments supplementing the ordinary criminal law should be repealed."

I see nothing there which suggests that these enactments should be examined, nothing that they should be modified, still less that any part of them should be retained. Further, if we are to seek for more light on the intention and the principle of this Bill, let us come to the Statement of Objects and Reasons. It says :

" The ordinary criminal law of the land is sufficient to deal with persons guilty of offences against the State."

The ordinary criminal law of the land. I submit, therefore, that if this Bill did go to a Select Committee, it would not be open to that Select Committee to equip Government, if they thought fit, with special powers outside the ordinary criminal law of the land.

THE HONOURABLE SAIYID RAZA ALI : On a point of order, Sir. I believe it will be open to the Select Committee to modify instead of repealing the various Acts which are mentioned in the Schedule ?

THE HONOURABLE THE PRESIDENT : I should be sorry to give a definite ruling on that point at once. The Honourable Member will readily recognise that if I stated anything on that point now I should be seriously prejudicing the rights of the Chairman of the Select Committee to deal with points of order arising before him should the Bill go to a Select Committee.

THE HONOURABLE MR. J. CRERAR : I think, Sir, I am at least entitled to infer from your ruling some considerable doubt whether the Select Committee could have the very wide latitude which my Honourable and learned friend supposes they could have. But that is not precisely my point. My point is that if Government accept this amendment they are committed to the principle of a measure which rests not on modification or reconstruction, but on repeal and of which the original mover in the course of the Statement of Objects and Reasons underlying his Bill, expressly says in the clearest and the most unquestionable terms that the ordinary law of the land is sufficient to deal with persons guilty of offences against the State. That, Sir, is really the substance of my position. If it were possible for me to meet the attitude which I very warmly acknowledge, the attitude that has been expressed in the speeches of Honourable Members who have supported this motion, the recog-

nition by my Honourable friend of the manner in which Government have, as a matter of fact, exercised their powers, the general recognition that having regard to the responsibilities of Government, having regard to the dangers which I have pointed out and having regard to all the other realities of the case, Government ought to be equipped with such special powers as they can substantiate a case for nothing would give me greater pleasure and gratification than to be in a position to respond to that appeal. I am not in a position to respond to that appeal because the motion made by my Honourable friend and the consequential amendment of my Honourable friend Dr. Mitter would necessarily commit Government to a position entirely inconsistent not only with the general lines of the argument which I have urged in my reply to the Honourable Mover, but also with the considerations which I have now the honour to place before the House.

THE HONOURABLE MR. R. P. KARANDIKAR: (Bombay: Non-Muhammadan): Sir, I rise to support the motion to refer the Bill to a Select Committee. I do it as the second best thing that I could do on the present occasion. I have to differ from the view which has been placed before this Council by the Honourable Mr. Crerar with reference to his interpretation of the expression "repeal". I think that it is open to this House to take the whole Bill into consideration in spite of the express view that we find in one single word like "repeal". I do think that the idea conveyed by this Bill is to enable a reconsideration of the various enactments mentioned in the Schedule. Specially, as there are five enactments mentioned in the Schedule, it would be open to the Select Committee while discussing both the principle and the utility of touching these enactments, to go further into the question of either retaining one Act, repealing another, modifying a third, or amending a fourth, and it would just be open to the Select Committee to whom this Bill might go for consideration to look into all the aspects of the question.

I would just like to clear one position. It has been urged, and with considerable force, that the Government's power should not be impaired. I wish to assure them that it is not anybody's desire to impair the power of Government in the least. The endeavour of every one in this House, as well as of every one who belongs to the other House, is to strengthen the hands of the Government. If Government would be weak they would be weak because they have not got the popular support. Government would be strong if they had the popular support, and as long as Government can count on popular support they need not fear being styled as either a weak Government or an impaired Government. It is not the least desire of anybody to impair Government. What every one here as well as in the other House tries to do is to see that Government are placed on a very sound basis, and are made strong by popular support in every manner possible, and it is in this behalf that every endeavour is being honestly made by those who belong to this House or to the other House to see that wherever the confidence in Government is likely to be shaken by one enactment or another there may be measures brought before this House or the other House to strike at the root of that cause and to see that those enactments no longer exist upon the Statute-book.

THE HONOURABLE THE PRESIDENT: The Honourable Member is wandering away from the Select Committee.

THE HONOURABLE Mr. R. P. KARANDIKAR: I am referring to the necessity to refer the matter to the Select Committee because it is the desire of all concerned to strengthen the hands of Government. I do not yield to the temptation that is in the way of my friend the Honourable Mr. Roy that he does not like the Bill and therefore he wants it to be referred to the Select Committee. That may be his point. My point is that if this Bill is referred to the Select Committee it need not necessarily mean the repeal of every word of all the enactments mentioned there. They will take into consideration the desirability of repealing such of them as do require amendment, having regard to the fact that many of these are a century old and they may require amendment in the light of experience. I therefore on the present occasion reserve my right to a few remarks if they are necessary at a later stage. I support this motion of the Honourable Dr. Dwarkanath Mitter.

THE HONOURABLE MR. PHIROZE C. SETHNA: (Bombay: Non-Muhammadan): Sir, I have listened with great attention to what fell from my Honourable friend Mr. Crerar in regard to this amendment. You ruled, Sir, that it is the practice of this House that when a Bill is referred to a Select Committee it implies that the House has agreed to the principle underlying the Bill. The Honourable Mr. Crerar pointed out that the principle underlying the Bill is the repeal of the Bills referred to in the Schedule. There are five Bills. The Honourable Mr. Crerar further pointed out that either the Bills ought to go or remain and that there is no *via media*. From what fell from the Honourable Mr. Crerar it is clear that in his own mind he has doubts whether some of the Regulations which are antiquated should remain in their old form or be recast in a new form. My point therefore is that, if Government do not agree to the repeal of all the five Acts, it may be that after consideration in the Committee they may at least agree to repeal one or two. Any Act so repealed might be reintroduced in a manner that would serve our present day requirements. It is for these reasons I would appeal to the Honourable the Home Secretary to meet the wishes of the House by agreeing to the amendment of Dr. Mitter.

THE HONOURABLE THE PRESIDENT: The original motion was:

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration."

On which an amendment has been moved:

"That the Bill as passed by the Legislative Assembly be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr. Crerar, the Honourable Sir Maneckji Byramji Dadabhoy, the Honourable Sir Deva Prasad Sarvadhikary, the Honourable Mr. Karandikar, the Honourable Saiyid Raza Ali, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. K. C. Roy, the Honourable Mr. J. P. Thompson and the Honourable Dr. Dwarkanath Mitter and that the presence of five members of the Committee shall be necessary to constitute a quorum."

To that amendment two amendments have been moved:—

"(1) to add at the end the words 'and that the Committee do submit their report on or before the 10th September 1925' and

(2) to omit the word 'and' where it occurs before the words 'that the presence of five'."

The question I have to put is that those two amendments be made to the
1 P.M. Honourable Dr. Dwarkanath Mitter's amendment:

The Council divided :

AYES—13.

Borooah, Srijut Chandradhar.	Rampal Singh, Raja Sir.
Chettiyar, Sir S. M. Annamalai.	Raza Ali, Mr.
Karandikar, Mr. R. P.	Roy, Mr. K. C.
Manmohandas Ramji, Mr.	Sarvadhikary, Dr. Sir Deva Prasad.
Mitter, Dr. D. N.	Sethna, Mr. Phiroze C.
Natesan, Mr. G. A.	Vedamurti, Mr. S.
Ramadas Pantulu, Mr. V.	

NOES—30.

Abbot, Mr. E. R.	Khaparde, Mr. G. S.
Akbar Khan, Major Nawab Muhammad.	Laird-MacGregor, Mr. E. G. L.
Aman Ali, Khan Bahadur.	McWatt, Major-General Sir Charles.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.	McWatters, Mr. A. C.
Chadwick, Mr. D. T.	Misra, Pandit S. B.
Charanjit Singh, Sardar.	Mitra, Mr. K. N.
Commander-in-Chief, H. E. the.	Moti Chand, Raja.
Crerar, Mr. J.	Parsons, Mr. A. A. L.
Currie, Sir William.	Ram Saran Das, Rai Bahadur Lala.
Dadabhoy, Sir Maneckji.	Sarma, Sir Narasimha.
Dutt, Mr. P. C.	Sen, Mr. B. C.
Fazl-i-Husain, Mian Sir.	Tek Chand, Diwan.
Froom, Sir Arthur.	Thompson, Mr. J. P.
Harnam Singh, Raja Sir.	Wacha, Sir Dinshaw.
Ismail Khan, Haji Chowdhuri Muhammad.	Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : I have now to put to the Council the amendment of the Honourable Dr. Mitter. I have read it to the House several times. The question is :

"That the Bill be referred to that Committee."

The Council divided :—

AYES—13.

Borooah, Srijut Chandradhar.	Rampal Singh, Raja Sir.
Chettiyar, Sir S. M. Annamalai.	Raza Ali, Mr.
Karandikar, Mr. R. P.	Roy, Mr. K. C.
Manmohandas Ramji, Mr.	Sarvadhikary, Dr. Sir Deva Prasad.
Mitter, Dr. D. N.	Sethna, Mr. Phiroze C.
Natesan, Mr. G. A.	Vedamurti, Mr. S.
Ramadas Pantulu, Mr. V.	

NOES—30.

Abbot, Mr. E. R.	Khaparde, Mr. G. S.
Akbar Khan, Major Nawab Muhammad.	Laird-MacGregor, Mr. E. G. L.
Aman Ali, Khan Bahadur.	McWatt, Major-General Sir Charles.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.	McWatters, Mr. A. C.
Chadwick, Mr. D. T.	Misra, Pandit S. B.
Charanjit Singh, Sardar.	Mitra, Mr. K. N.
Commander-in-Chief, H. E. the.	Moti Chand, Raja.
Crerar, Mr. J.	Parsons, Mr. A. A. L.
Currie, Sir William.	Ram Saran Das, Rai Bahadur Lala.
Dadabhoy, Sir Maneckji.	Sarma, Sir Narasimha.
Dutt, Mr. P. C.	Sen, Mr. B. C.
Fazl-i-Husain, Mian Sir.	Tek Chand, Diwan.
Froom, Sir Arthur.	Thompson, Mr. J. P.
Harnam Singh, Raja Sir.	Wacha, Sir Dinshaw.
Ismail Khan, Haji Chowdhuri Muhammad.	Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: That brings the Council back to the debate on the original motion, namely, that the Bill be taken into consideration. Assuming that several Honourable Members wish to speak on that, I think I had better now adjourn the Council to a Quarter to Three.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE SAIYID RAZA ALI: Sir, I find myself on the horns of a dilemma in speaking on the motion that the Bill be taken into consideration. When this Bill was before the Legislative Assembly, a certain Member, who wanted to act as a peace-maker, pointed out that the greatest difficulty in the way of a compromise being effected was that the Swaraj party in that House relied on their numbers while the Government entrenched themselves behind the solid block of Government votes in this House. I will not be so uncharitable, Sir, as to accept the suggestion of that Honourable Member. I am free to confess that on a question like this there can surely be more view points than one, and I will be the last man to suggest that those and only those who voted for the Honourable Dr. Dwarkanath Mitter have a right to say that they are correct. I do not minimize the importance of the official view point as disclosed in the speech of the Honourable Mr. Crerar. Nor, on the other hand, do I feel inclined to brush aside totally the considerations that have led the Honourable Mr. Ramadas to move that this Bill be considered and passed. All the same, Sir, I find my position extremely uncomfortable. The Act, as would appear even to a casual observer, is extremely defective as regards drafting. It is no doubt capable of being improved, but that stage, I am afraid, is over. No amendments have been scheduled in this House, so that Honourable Members have got to make up their minds either to vote for Mr. Ramadas or to vote with the Government. Personally, I do not think, looking to the phraseology of the Act, that my Honourable friend Mr. Ramadas will be right in pressing this measure to the vote. But, Sir, I cannot disguise from myself the fact that, whatever may have been the reasons, the attitude of the Government is not one which can draw for itself the sympathy of impartial judges. What, after all, has been the attitude of the Government? Here was a proposal, a very reasonable proposal, that the Bill be considered in all its details by a Select Committee. That amendment was strongly opposed by the Government. I do not think after this the Government have a right to expect those who think for themselves that they should vote with it. The best thing, I believe, under the circumstances, for a man holding the view that I do, would be to act on the famous Persian proverb: "*Aqilan taslim kardand ikhtiyar*" which means, "On occasions it is the prudent who keep silent."

After all, if I may be allowed for a minute to use a legal phrase, this is a fight between two wrong-doers. On the one hand, we find Mr. Ramadas who wants to sweep away all these Acts, the use of some of which may be required

in emergencies like the one that happened in 1921-22. I must confess that I cannot say that the administration of the country can be carried on, even in emergencies, without the help of some sort of Acts like these five that are mentioned in the Schedule. Therefore, the Honourable Mr. Ramadas forfeits the sympathy of all impartial observers. Now, look at the other wrong-doer. What is the attitude of the other wrong-doer ? The other wrong-doer, namely, the Government, is right when it says : " It is a big matter and you are not right in repealing these Acts *in toto* inasmuch as their enforcement would in all likelihood be required at critical times ". But, Sir, is this wrong-doer also right when it says : " No, I am not going to consider the question even of the modification of these Acts."

THE HONOURABLE SIR MANECKJI DADABHOY : And, pray, what is your attitude !

THE HONOURABLE SAIYID RAZA ALI : My attitude is, the attitude of every honest man, that, when you are between two wrong-doers, neither side with the one nor with the other, but stand up for your own convictions. Induce the two wrong-doers to come to a compromise.

It may be that one of them perhaps is a greater offender than the other. But after all, as the legal phrase goes, there is not much to choose between two wrong-doers, and therefore, Sir, I propose to abstain from voting if there is a division.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Sir, as my friend, the Honourable Saiyid Raza Ali, has not yet gone up to the Bench, which I hope he will soon do, I am inclined to tell him a good old Calcutta story.

THE HONOURABLE SAIYID RAZA ALI : Older men than myself have waited in vain.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : They have, but I hope my friend will not wait in vain. Two very vigorous vakils were appearing on either side and the first made points that the Judge thought were the last words on the subject. When the other man got up, the Judge said, " What is the good of wasting the time of the court ; all that could have been said has been said." The second Vakil asked, " Sir, shall I not have an opportunity," to which the Judge replied, " Well, by all means, if you wish to please yourself : " and when the Vakil had finished the learned Judge turned round to the other and said " Look here, my friend, the other man has not spoken amiss." And the Judge said that he had been placed on the horns of a dilemma. My friend here has never really been on the horns of a dilemma in his attempt to judge between two wrong-doers. He has quietly and politically, slipped out to his own satisfaction, on account of his conscience as he tells us. I do not think, Sir, that the case is so desperate as my Honourable friend thinks. Why does he think that the stage for an honourable settlement and compromise has passed ? In supporting the motion of the wrong-doer, the Honourable Mr. Ramadas Pantulu, whose wrong-doing is not of his own making or seeking, I am not without hopes. If this House will take a generous and reasonable view of the situation and if at a later stage if this

[Dr. Sir Deva Prasad Sarvadhikary.]

motion is passed you and the House will be pleased to allow some of us to move amendments, though not tabled on the lines which were adopted in the other House, the situation may yet be well saved. However, that is a matter that I do not propose to anticipate. I must confine myself for the present to the question whether this Bill should be taken into consideration. Sir, if proof were necessary for something being done in this direction, I think the Honourable Mr. Crerar's speech, upon which I congratulate him in the same way as he congratulated the Honourable Mr. Ramadas Pantulu, opens out a wide vista of possibilities that this House should not shut its eyes to. I regret, Sir, that amendments have not been scheduled in the way that some were attempted to be scheduled in the other House, but I do admit that the time for that would not be wholly passed if this House does think that the Bill should be taken into consideration. Sir, reference has been made to what this House did this morning with regard to the motion for a Select Committee. I do not think that it was in order nor should I be in order in referring to that. But I do refer to one of the arguments of my Honourable friend opposite from Nagpur in support of the rejection of that motion in support of the rejection.

THE HONOURABLE SIR MANECKJI DADABHOY: You have not heard me yet.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: I am glad to hear that. I hope he will be supporting the motion for consideration if his interruption means that. Well, Sir, for the present without any uncharity to him I shall assume that he is not of my mind in this matter and that he will probably be supporting the rejection of the motion of my friend Mr. Ramadas Pantulu. And what was his argument, Sir? Let us not do anything that will not be acceptable to the majority in the other House and let us avail of the strength of his school of thinking as illustrated, if one may take it as an illustration, by the result of the voting for the Select Committee. He and people of his way of thinking are in the majority here availing himself of which he proposes a curt rejection of the whole Bill. Arithmetical victory is a thing that does not always appeal to me and arithmetical victory here will not be a last word. I shall refer to one extract from the Report of the Repressive Laws Committee to the following effect:

"It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the members of the Legislature."

If as a result of voting here and in the other House it be ultimately shown that totalling the votes in the two Houses together the majority be in favour of the Bill, then my friend will be in an undesirable position indeed and Repressive Laws will be continued in spite of the finding and the recommendations of the Committee. In passing, Sir, it is noteworthy that this Committee was called the Repressive Laws Committee. I do not think the Government can feel very comfortable and happy with regard to the nomenclature to which they never objected. But it has carried a certain amount of prejudice, a prejudice that an impartial man would not attach much importance to, but at the same time it does connote some sort of an understanding that

the Government did not seriously concern themselves with regard to the nomenclature of the Repressive Laws Committee and did also agree to the repeal of Repressive Laws.

THE HONOURABLE MR. J. CRERAR: If I may interrupt the Honourable Member, those particular words were borrowed from the Resolution moved by the Right Honourable Srinivasa Sastri.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Anyway, Sir, the loan was not objected to. If arithmetical victory is good, it is good at times, by a little further arithmetic later on to show to this House that victory will be on the side of repeal. There is no question, there can be no question, about these measures in their present unadulterated shape being regarded with deep and genuine disapproval by a majority of the members of the Legislature, and of the thinking and vocal public? The motion in the other House was accepted by a vote of 71 against 40. If the unfortunate number, thirteen which was the number of votes in connection with both the amendments that came up in this House earlier be still less on the present motion the situation will remain unchanged. I shall be prepared to anticipate that some Honourable Members who have expressed their frank dislike of the Bill though they support a reference to Select Committee, may fall off and make the number of votes on this occasion a little less ominous than thirteen. Supposing we were to be in a minority of something like 10 or less, even then with the 71 in the other and 10 or 8 in this House, we should still be in a majority as a whole. I do not believe, Sir, in these arithmetical juggles or arithmetical victories, but still there will be this point with regard to it that the Houses of the Legislature as a whole are for repeal or reasonable amendment. I refer again to the division lists in the other House with regard to some of the amendments. Some of them were lost only by 14 votes, others by 20. Having regard to the temper and the tone of this House I have not the least doubt, Sir, that if an opportunity was afforded for moving some of these amendments which find a place in the proceedings of the Legislative Assembly they would be carried. It is conceivable that leave should be given to Members who have not scheduled these amendments to move them and with the good sense of this House to have those amendments accepted, which would make the law acceptable to the people in a modified form and yet continue to arm the Government with all the powers they want; and I plead earnestly that such opportunity should not be denied.

Sir, having regard to what is happening elsewhere, it is an interesting and inevitable evolution upon which I should not ridicule or twit those who are coming round, as has been the fashion in some circles, but should welcome it and try to lead it on from more to more. In the evolution that is going on in the other House and outside, people hitherto of a different mode of thinking and acting will become more and more an aid to the maintenance and progress of law, order and co-operation. Honourable Members should and may with profit take note of the recent voting on the Contempt of Courts Bill in this connection. I have not the least doubt that that minority of 14 with regard to certain amendments in the other House will dwindle down and will become a majority and reasonable amendments that this House makes will be ultimately accepted by the other House. The friction and conflict that Sir

[Dr. Sir Deva Prasad Sarvadhikary.]

Maneckji Dadabhoy apprehends would then be illusory. It is in that view and hope, Sir, that I venture to think that this House should not refuse to take the Bill into consideration and later on with your indulgence and with the permission of the House some of these amendments may be successfully moved.

3 P.M.

It is a very serious position which should not be lightly slurred over. I do not think that people ought to be placed in the position to which my Honourable friend Saiyid Raza Ali has referred. There ought to be opportunities of a free and frank consideration of the whole situation and opportunity should be given to this Chamber to put right matters in the best of its light having proper regard to what the Government are certainly entitled to in the present circumstances, about which there has not been the least note of dissent in this House, not even from those who are looked upon as Extremists.

If I may refer to the Preamable of the Regulation of 1818, the position will be clear. It begins as follows:

"Whereas reasons of State embracing the due maintenance of the alliances formed by the British Government with foreign powers, ..."

Whoever questions that that power should continue? The Preamble then goes on:

"the preservation of tranquillity in the territories of Native Princes entitled to its protection ....."

Some of us might be inclined to raise questions with regard to what my Honourable friend Mr. Thompson does in his secluded department, and if we had the opportunity we should be able to give versions of certain facts which would not make him quite comfortable. We are not however allowed to do that in spite of which I do not know how he feels about it. He is safe at all events from our intrusion and the power in the law continues unchallenged. Then, Sir, we have "the question of security of the British dominions from foreign hostility"—I shall leave out the words about "internal commotion" for the present. This power also has not been questioned except with regard to "internal commotion". The latter would be a power of a wider and more comprehensive nature than even the Government would care to claim and the Repressive Laws Committee certainly contemplated and advised its exclusion. One of the amendments that might be moved to which I referred,—I shall not refer to that at length now because this is not the opportunity—clearly and unequivocally wanted to leave out, rather leave in, questions of internal commotions on the frontiers. My Honourable friends from the Punjab some of whom have been speaking to me are naturally nervous with regard to what may be happening there on the frontiers, and the amendment that I have in view would deliberately place, so far as the frontiers are concerned out of the category of the repeal following the suggestions of the Repressive Laws Committee. Next remains the question of internal commotion proper with regard

to which we emphatically say that the normal laws of the country and not the laws that have been characterised as archaic and antidiluvian, should any longer continue to govern the situation now that we are on the dawn of an era when better things are promising. That was the position that some of us took up in connection with the Bengal enactment when it came up before this House in March last and I ventured to say, and I shall repeat:

"If there was reason to believe the existence of a conspiracy like that, that and that alone would make the people of Bengal hesitate to object to the provisions of the most drastic nature, whatever may be urged regarding the sanctity of ordinary procedure and normal law of the country. In absence of such evidence these are violent and abominable crimes for which emergent exceptional law should not be needed. We have had a chapter of exceedingly regrettable incidents, crimes, violent crimes for a series of years, call it revolutionary crimes if you like, revolutionary possibly from the point of view of those that are responsible for them. But that cannot be called an organised revolutionary movement for the furtherance of political aims and aspirations of any considerable section of the country or the people. They are mere insane crimes that ought to be put down with a heavy hand, for which there is ample machinery. That is where I draw the line, and I do not think that my Honourable friend's gratuitous warning about 'levity and hardihood of assertion' will change the situation or is warranted in this connection."

THE HONOURABLE SAIYID RAZA ALI: Is that a quotation from the Honourable Member's own speech?

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Yes. I said that and I say it again. I say that that is the attitude of mind that ought to prevail even in my Honourable friend, Saiyid Raza Ali. Every one of us here is prepared to agree that Government should have all the powers that they reasonably want. And we want to see it legalised and regularised here and with the assistance of this Bill with reasonable modifications. Where, then, is the objection to giving this House an opportunity of having the Bill taken into consideration and later on of allowing suitable amendments to be moved?

Sir, reference has already been made to the exclusion of the Punjab Murderous Outrages Act and the Moplah Act, to give them short names. The Honourable Mr. Crerar informed this House that even though those Acts were excepted for the time being there was a threat held out that on some later day a Bill would be introduced to have those also repealed. That is a situation with which we need not for the present trouble ourselves and reference to it in connection with this measure does act with a certain amount of prejudice. There is another matter of prejudice to which I would like to refer. I do not think that the Honourable Mr. Ramadas was quite right in referring to the approaching elections in the way he did. I have no doubt Members of this House, who happen to think differently about this matter from him and me, have their own reasons, which to them appear to be good. They are and will be guided by considerations, irrespective of questions of elections. They and we shall continue to do our work in the best of our respective lights vouchsafed to us. I do not think, Sir, that Honourable Members in this House or anywhere should be persuaded by considerations of the kind suggested. Sir, as this is a motion merely for having the Bill taken into consideration I should not be well advised in referring in detail to the amendments that ought to be put before the House in order to make the Bill less objectionable, and from that point of view I myself have not the least conscientious objec-

[Dr. Sir Deva Prasad Sarvadhikary.]

tion to borrow the Honourable Saiyid Raza Ali's words in supporting the motion that the Bill be taken into consideration. The conscientious objection would be quite the other way.

THE HONOURABLE SIR MANECKJI DADABHOY : At the outset I wish to thoroughly associate myself with the Honourable Mr. Crerar in the high compliment he has paid to my Honourable friend, Mr. Ramadas Pantulu, for the great moderation and temperateness with which he has introduced his motion in this Council. I am very glad to say that Mr. Ramadas has kept up the traditions of this House and that his speech on this occasion stands in bold contrast and relief to many of the speeches made in the other House. He is entitled therefore to our gratitude on this occasion. There are one or two points in his speech made this morning which I should like to dispose of before I come to the text of the Bill now before the Council. My Honourable friend with his great ingenuity and subtlety referred to the impending election. He covered his remarks in a veil but the result of his remarks on that point is no more than this, " Be careful. The sword of Damocles is hanging over your heads. The election is coming, and mind what you are doing on this occasion with this Bill." Let me tell my Honourable colleague that the fact of the forthcoming election will not in any way weigh with me in the slightest degree in coming to a correct conclusion on this subject, and I have no doubt that it will not weigh with my Honourable colleagues here who with their sturdy independence, which has distinguished them on various occasions, will keep up the dignity and the traditions of this great House. Sir, I should be false to myself, false to my constituency which consists of landed proprietors, agriculturists, commercial and other interests, if I swerved in the slightest degree on this occasion from the path of duty in speaking out what I feel in connection with this Bill. I will not follow the policy of my Honourable colleague Mr. Saiyid Raza Ali in throwing the whole blame on both parties, running with the hare and hunting with the hounds. Nor shall I be coerced into any submission in connection with this Bill by the remark which my Honourable colleague Mr. Ramadas made that this Bill received overwhelming support in the Legislative Assembly and comes before this House with the hall-mark of its approval. Mr. Ramadas is perfectly correct. This Bill was passed in that Assembly by an overwhelming majority. It is also true, as he said, that the Independents and the Moderates joined in supporting this Bill and he threw out a hint to the Independent Members of this Council also to support the Bill. Sir, my close study of the proceedings of the sister Assembly for the last 20 months has brought to me the conviction that some of the Independents, though trading under a different label, in their heart of hearts are no more than Swarajists. They have proved themselves as such by their conduct, speeches, and their votes. Sir, having stated that, I shall come to the matter before us.

The Bill itself is a small measure. My friend Saiyid Raza Ali with his legal knowledge and acumen has found fault with the drafting of this Bill. Probably he is right. I am inclined to agree with him, but the blame cannot be thrown on Mr. Ramadas Pantulu. The author of this Bill was another

gentleman who now occupies a very high place in the Government of India. (*An Honourable Member* : " Not in the Government of India. ") Yes, I mean as President of the Assembly. Mr. Ramadas has only sponsored this Bill in this Council and as a godfather to this Bill I do not think he is liable to any rebuke such as my Honourable friend Saiyid Raza Ali has extended to him. The Bill itself is a simple one. In the condition in which it was introduced in the Assembly it did not contain the proviso which is now added to section 2. That proviso was purposely put in for the purpose of giving the Local Government of the Punjab powers under section 12 of the Punjab Act and also the Madras Government, for retaining in their hands, the powers under section 6 of the Moplah Outrages Act. In other respects the Bill comes before us in its original condition. My friend Dr. Sarvadhikary is always a very staunch and enthusiastic supporter of the general public and I highly appreciate him for that purpose. I am equally enthusiastic and vigilant in my own way in watching the interests of the public and my own constituency. Both Dr. Sarvadhikary and Saiyid Raza Ali have in the course of their criticisms led this Council to understand that the Acts and the Regulations which are sought to be repealed are of an outrageous character and that the Bill before us seeks to repeal those old legislations which cannot possibly be retained on our Statute-book in this era of civilisation with any credit, reason or dignity. My Honourable friend Saiyid Raza Ali even goes to the other extreme of stating that the Government in this case are the wrong-doer. I hold no brief for Government. The Government Benches have capable men to fight their own battles but, in order that the scope of this Bill may not be misunderstood and that the real position which this Bill implies may be understood, I will with your permission make a very brief examination of these Bills which are now sought to be repealed by the Honourable Member. Sir, this repealing Bill comprises five Bills. Three of them are the old Regulations, the Regulation of 1818, the Regulation of 1819 and the Regulation of 1827, and two others—the State Prisoners Act of 1850 and the Prevention of Seditious Meetings Act, 1911. My Honourable friend Mr. Ramadas stated in his speech this morning that these Regulations are a century old. Sir, the hoary age and the historical antiquity of some of these laws is a fact to be borne in mind and worth reckoning instead of being belittled. The very fact that these Regulations have existed for a century and have only been applied in the course of a century in half a dozen or a dozen instances since the war and very rarely before the war is an abundant guarantee that they have been very sparingly used and considerately put into operation by the various Local Governments, and therefore when this Council is called upon to vote for total repeal the fact that no serious injustice has been proved to be done in the past is an adequate and unanswerable reply to the critics of these laws. Am I wrong in now advising the Council not to countenance the suggestion of the Assembly to repeal those Acts in such a great hurry ! Sir, my friend in the course of his speech has rightly pointed out that on some occasions these Regulations have caused some injustice and the powers given under them have been abused. I am not prepared to controvert that proposition. I will not for a moment try to defend Government that on some occasions when the Government of India or the Madras Government or the Bombay Government have put these Regulations

[Sir Maneckji Dadabhoy.]

into operation, they have not committed errors of judgment or that they have not acted on some occasions unwisely and hurriedly. After all Government is a human Government. Any tribunal that you may establish or set up after all is a human tribunal. You may vest the power, you may retain the power in the hands of the Executive. You may retain the power in the hands of Judges, in the hands of special Courts. Human judgment is not always infallible. It has been often said in connection with these Bills: 'Why not put the machinery of the ordinary law into operation and have these people tried in the law courts?' Does my Honourable friend Mr. Pantulu tell me that the Judges have never erred? Does he mean to assure this Council that human judgment is always infallible? If he takes up that position, I am prepared wholly to disagree with him. In the course of my practice I have personally encountered two instances where men were sentenced to death and hanged and it was subsequently proved that those people were actually innocent. These dangers exist everywhere. Whether you may have a regular tribunal, whether you may vest the power in the hands of the Executive, such mistakes, such errors of judgment, are likely always to take place, and I therefore submit that such arguments should not unduly weigh with Honourable Members in coming to the right decision—merely because sometimes the Government act foolishly or through an error of judgment take unnecessary proceeding,—that the entire usefulness of these Regulations is negatived by such instances.

The HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Does my Honourable friend question the fact that people have more confidence in Judges and Courts?

The HONOURABLE SIR MANECKJI DADABHOY: I do not question that. I am only laying down the proposition that even Judges err: and to say that if these people who were locked up under the Regulations had been tried in a court of law, they would have received justice is not always a proper argument to advance. I only emphasise the fact that these errors of judgment always take place, and therefore on that account alone, pray do not judge of the usefulness of a particular Act or a Regulation, and tell the country that because a particular Regulation gives powers to an Executive to restrain the liberty of an individual and that there is no regular trial provided by it and there is no regular formality of the usual legal proceedings attached to it, therefore it ought to be entirely condemned. That is the point. My Honourable friend opposite will understand what I am now trying to impress upon my Honourable colleagues.

Sir, what is the purport of these Regulations which are a century old? My friend seems to think that all that is wrong and reprehensible is embodied in these Regulations and thus when irresponsible speeches are made like that, the general public, who are unaware of the facts of the case, are misled into the formation of wrong and erroneous judgments. Now, if Honourable Members will peruse the Preamble and sections 1 and 2 of these Regulations, they will find that section 2 is the operative section and section 1 defines the four purposes for which this Regulation can be put into operation. Now what are the four purposes? Let us take purpose by purpose and examine it and

see if there is anything very outrageous. I shall confidently rely on the sound judgment of my Honourable colleagues here to take a right view of the entire matter. Now the first point is this. Under the Preamble, the first ground of interference would be :

" Whereas reasons of State embracing the maintenance of alliances formed by the British Government with foreign powers, etc. "

That is, in a case of breach of any of these, the Government of India would have the right to put it into operation. Can any man, can any sane man object to this ? Is not any Government entitled to protect and preserve and maintain its alliances and obligations with foreign powers ? When my friend there, the Honourable Mr. Ramadas Pantulu, will have a Swaraj Government and when probably he will be a member of the Swaraj Cabinet some day, may I ask if he will not require Regulations of this nature to protect his own indigenous Government ? Will he put his hand on his heart and tell us to day that his Government can dispense with provisions of this nature ? I am certain any form of government, be it a Swarajist Government, be it an autocratic Government, be it a bureaucratic Government, be it a democratic Government, will require some power in their hands, some provisions of this nature to protect themselves and prevent abuses taking place. The second part of the preamble in this :

" the preservation of tranquillity in the territories of Native Princes under the protection of Government."

You know, Honourable Members.....

THE HONOURABLE SAIYID RAZA ALI : Sir, should not the Honourable Member address the Chair ?

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, I must bring to the notice of my Honourable Colleagues that India is a vast country, that it comprises the territories of some great Princes, and that the territories owned by these Princes and Chiefs is nearly one-fifth of the territories owned by the British Government. Thus can the Government of India and we, the Members of the Indian Legislature, claim to have any protection for the people in the British territory if we do not simultaneously protect and safeguard the interests of the Princes and Chiefs in alliance with the Government of India ? We are bound, apart from the question of treaties, living in such close proximity, having such close trade relations between the Indian States and India, having such intermixture of population and the facilities of transport which are steadily increasing, we are bound for the safety of the greater interest of British India to preserve and protect the rights and privileges of these Princes ; and if these Regulations provide for the maintenance of that peace and tranquillity, is it such a serious affair as to be taken objection to and to be condemmed so lightly ? I leave that point to Honourable Members to judge. What is the next point ? The next point is the security of British Dominions from foreign invasion. I think I ought not to say much on this point. My Honourable colleagues know what propaganda since the war the Bolsheviks have carried on in this country. Many of my Honourable colleagues here know that emissaries were sent out from the Soviet

[Sir Maneckji Dadabhoy.]

Government and the other foreign powers into this country to cause internal commotion and unrest: and if any of these people come from foreign territories for the purpose of destroying the peace of this country, are not the Government entitled to take steps to arrest these people and punish them and detain them? And if the Government do take such steps, can my Honourable friend call them wrong-doers, as he has termed them? Such powers and privileges would be claimed by any Government in whatever country.

The next point is regarding internal commotion. I must candidly say that I myself entertain some apprehension about the correct interpretation of these words. Internal commotion might be in various ways. My Honourable friend, Mr. Ramadas, has stated that Government have sought the shelter of these Regulations for the purpose of preventing political agitation and that political agitation could not come under the construction of the words "internal commotion." Perhaps he may be right. I wish to keep an open mind on the subject till the whole thing has been thoroughly threshed out and examined. At present I am inclined to believe that political agitation, industrial agitation and agricultural and social agitation might possibly, when they incited and caused commotion, be said to come within the operation of these words. However, as I said, I shall keep an open mind on the subject till the matter has been fully discussed and threshed out.

Now, with great solemnity and with great show of reasoning my Honourable friend Mr. Ramadas pointed out that this Council of State recommended the appointment of a Repressive Laws Committee to Government, and when that Committee has made its recommendations, the Government have been sleeping over them and the Indian Legislatures with supine indifference have discarded the report of that Committee. He and his friends say that both the Government and this Council have not acted in consonance with that report and that both the Legislatures have violated the trust reposed in them. Does my Honourable friend wish to tell this Council that this Repressive Laws Committee recommended a whole-sale repeal of Bengal Regulation III of 1818? Did the Committee ask for it? Did they even mention about the internal commotion aspect of the case? To have no doubt in the matter and for the edification of the Honourable Member, I would read a paragraph from the Report of that Committee. It is paragraph 13:

"Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from Foreign or protected States who are liable to become the instigators or focus of intrigues against such States: persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts: and persons tampering with the inflammable material on our frontiers. We are, in fact, satisfied of the continued necessity...."

—mark the words " satisfied of the continued necessity "—

" for providing for the original object of this Regulation, in so far as it was expressly declared to be 'the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility,' and only in so far as the inflammable frontier is concerned from internal commotion. "

So, my Honourable friend Mr. Ramadas will see that for the four purposes for which this Act was framed, the Repressive Laws Committee, with an Indian gentlemen, Sir Tej Bahadur Sapru, as its Chairman, have advised against the repeal of this Regulation. In the face of such a definite instruction on the subject, he talked glibly in this Council when he said that this Council has not fulfilled the trust reposed in it by an immediate repeal of an Act of this nature, though the recommendation of this Committee was made nearly 5 years ago. To say the least, it is not a correct fact to assert.

Now, Sir, in connection with the other two Regulations, I will not detain the Council much longer. The Regulation of 1818, which is commonly known as Bengal Regulation III of 1818, gave the Governor General in Council powers, irrespective of any restriction to province or area, to detain a man in custody for any such offence as is stated in it. The two other Regulations of Madras and Bombay are almost identical in terms with the Regulation of 1818 and give powers to their respective Governors to control such men as I have pointed out. I have shown, therefore, that these three Regulations are absolutely innocuous and there ought to be entertained no fear, no apprehension, of any kind by the general public or by the Members of the Legislature as regards the real scope of these measures.

Now, the next Act mentioned in the Schedule which we have been asked to repeal is the old Act XXXIV of 1850, namely, the State Prisoners Act. Probably it is not known to many Honourable Members that this Act is a mere supplementary Act to the aforesaid three Regulations. As some doubt was created with regard to the custody of these prisoners, this Act of 1850 was passed. I will just read the Preamble of this Act which will dispel all doubt on the subject. It runs as follows :

" Whereas doubts have been entertained whether the State prisoners confined under Regulation III of 1818 and the Bengal Codes can be lawfully detained in any fortress, jail or other place within the limits of jurisdiction of any of the supreme courts established by the Royal Charter and it is expedient that such doubts should be removed and the powers under the same Regulation extended to all the territories under the Government of East India Company ; It is hereby enacted as follows :—"

So, Honourable Members will see that supplementary legislation was passed for the purpose of dispelling certain doubts entertained as to the manner of the custody of prisoners taken under Regulation III of 1818 and the Madras and Bombay Regulations. Now, it will clearly appear to the Council, Sir, that if the Regulations are to be kept alive and maintained, it naturally follows that this State Prisoners Act of 1850 should also remain on the Statute-book, because it is necessary for the purpose of removing all doubts on the subject.

Sir, before I discuss the remaining Act, there are one or two remarks which I would like to make in this connection. A great deal has been said about

[Sir Maneckji Dadabhoy.]

the degradation and the insult to the Indian people by the existence of these Regulations on our Statute-book. I am perfectly conscious of sentiments like these often expressed. But I would appeal to my Honourable colleagues. Would it be less degradation, a lesser stain on the character and reputation of our people in this country if we have constant commotions, riots, outrages, murders, depredations in this country? Would that be an edifying spectacle? Would that increase the dignity of the country which we are all so anxious to maintain? Which is preferable? Regulations which are sparingly applied and which act as a deterrent to the people, or would you remove those Regulations and have chaos in the country, depredations, murders, outrages, men, women and children dragged from their homes and beds at night and taken miles away for the purpose of vengeance, cruelty, ransom or rape? Is that less degradation to the country? I think it is very imprudent to talk glibly about supposititious insults. But merely because these Statutes are of a preventive character, which remain on our Statute-book and which act as a deterrent not to cultured or enlightened people but to fanatics, to the uneducated, to the illiterate body of people, are we to be called upon to dispense with them? And, Sir, just realise what will be the state of affairs if these Acts were wholly repealed. We have large industrial interests in the country, we have large commercial interests in the country. Trade and Commerce is daily growing from one corner of India to another and is carried on with freedom and a certain amount of official protection. We have got large agricultural interests to be watched, nursed and looked after. What will be the state of the people in this country, and of all these interests, if laws innocuous laws of this character, which harm no body, and which have been assailed and objected to merely on sentimental grounds, and unjustly criticised and abused are removed? I cannot for one moment honestly and sincerely perceive that there is any sense in asking this House to repeal these Statutes.

Then, Sir, I come to the next Act, the Seditious Meetings Act. We are asked to abolish it. Honourable Members know, most of you know, that for some time past this Act has not been put into operation. It is in vogue in no part of India at present as far as I am aware, and if I am wrong the Honourable the Home Secretary will correct me.

THE HONOURABLE MR. J. CRERAR: That is quite correct, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY: It is in operation in no part of India. At the time when this Act was passed it was indispensable and since then it has rendered very useful service. India had no greater patriot than the late Gopal Krishna Gokhale. I appeal to Members of this Council to read the speech which that distinguished statesman made in connection with this Bill when it came up for discussion in the old Imperial Council. We have his admission. He said that the Act was a comparatively innocuous measure and he supported this Bill at that time. I was in the Council then and I also gave my feeble support to this Bill. Sir, with regard to this, what has the Repressive Laws Committee to say on the subject:

"Animated by these ideas, we therefore recommend the repeal of all the Statutes included in the terms of reference to this Committee, with a reservation as to Bengal

Regulation III of 1818 and the corresponding Regulations of the Madras and Bombay Presidencies. But we advise that the repeal of the Prevention of Seditious Meetings Act, 1911, and Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present. Their retention... "

—mark these words please,—

" Their retention is necessary in view of recent occurrences and possible developments which we cannot but regard with great apprehension."

The Repressive Laws Committee advised the retention of this measure and not as Mr. Ramadas Pantulu has pointed out this morning that the Committee recommended its repeal.

THE HONOURABLE MR. V. RAMADAS PANTULU: I did not say that, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY: You implied it by your speech.

THE HONOURABLE MR. V. RAMADAS PANTULU: No, on the other hand I expressly said that the Committee did not recommend its repeal.

THE HONOURABLE SIR MANECKJI DADABHOY: Now, Sir, this report was written in 1921 and the Committee then said it should be retained for the present. The Members of the Committee were very cautious; they did not ask for it as a permanent measure. And I for one am looking forward to the day when peace and tranquillity will be absolutely restored in this country and I shall then join my Honourable colleagues in giving my warm support for the repeal of this measure. But, Sir, can we now honestly state that this Act is no longer required? This report was written in 1921 and the members of the Committee then expressed grave apprehensions, and have those apprehensions not been justified, being fully confirmed by the events which have taken place during the last 4 years? Have we all forgotten the outrages at Gorakhpur, the riots at Rai Bareili, the massacres at Chauri Chaura? Have we forgotten the havoc and murderous outrages done in Malabar by the Moplahs, the riots in Central India and in the Punjab? If those unhappy events have happened with what reason can we ask the Government to repeal this measure and pronounce our anathema against this Act? These unfortunate events have happened since this report was written and in view of the events we have before us, could we blame Government for retaining these measures? Would the industrialists, the commercial classes, would the agriculturists, who like to live in peace and tranquillity and in serene enjoyment of their occupations, will they like all these measures to be repealed and chaos and terror introduced in the country? I cannot understand, Sir, all that is said and spoken in this Council and in the Assembly when these things are happening, throwing aside actual facts that are confronting us. We ignore facts. We ignore the circumstances. We discard arguments and realities and, like school-boys, we accuse Government for the sins which simply exist in our imagination. Sir, I have spoken enough, and clearly shown that the retention of these laws in the country at present is absolutely necessary. My Honourable friend Dr. Sarvadhikary in the course of his speech has dropped a hint that, after the consideration stage of the Bill is finished, he would propose certain amendments and it would be an appropriate

[Sir Maneckji Dadabhoy.]

act on the part of this Council to accept those amendments in order that the objections to the Bill may be mollified or removed. Sir, if the general public is ignorant of the real nature and character of these Bills, we cannot possibly dispel from their minds the wrong opinions formed about the real value of such measures. I myself feel that it is quite possible that certain of these Regulations as well as the Seditious Meetings Act might to some extent be modified if suitable conditions are prevalent in this country. I personally agree with my Honourable friend Sir Deva Prasad Sarvadhikary that the matter is one worth the consideration of this Council.

As the Supreme Council in the country we are bound to ignore all petty jealousies, all erroneous arguments and all mischievous inferences. We are bound not only to look to the maintenance of the general peace and tranquillity, but also to contribute our share to the due maintenance of law and order in this country and see if under a suitable atmosphere we are in a position to dispense with some of the obnoxious provisions of some of these enactments. I quite agree to that extent. I am in full sympathy with that object, but I submit with all humility to my Honourable friend that this is not the time nor the occasion for the consideration of this Bill. He must wait. There is no use bringing any amendments now. Let the Council pronounce a definite opinion once for all whether these Regulations ought to be maintained or ought to be repealed. Let us clear this important issue before we proceed further. If my Honourable friend opposite, who is himself a great lawyer, brings in a Bill of that nature before this Council I shall be the first to give my warmest help and assistance in the matter and see what can be done towards modifying the repressive character, if there is any, in these enactments. In view of the circumstances that I have mentioned, and in view of the facts that I have laid before the Council, I trust this House will have no hesitation in rejecting this Bill as it stands. Sir, I oppose the Bill.

*THE HONOURABLE KHAN BAHADUR AMAN ALI (East Bengal: Muhammadan): Sir, I rise to oppose the Bill. The reason why I oppose this Bill is that when the enactments under consideration were framed, the necessity for those laws was really felt. No one can object to that. The thing to be seen is whether these laws are now necessary in order to deal with the offences for which they were framed before, whether the purpose for which they were passed was a good one and whether they are opposed to the progress of this country in the way of education, in the way of agriculture, in the way of industry or in the way of politics. My personal view is that these laws do not interfere at all with the purposes I have enumerated here. On the other hand, they aid the peaceful progress and advancement of the country. If they are repealed my own conviction is, and it is not influenced by any extraneous circumstances, that disturbance and disaster will be the result and it will greatly affect the peace and order of the country. First of all, I must point out that the Executive are responsible for the working of these laws. In order to strengthen the hands of the Executive they were passed for purposes of tranquillity and order in the country. We see that the Executive are against repeal of these laws. This is not the only ground that influences me to rise and speak against this Bill. My own motto is the peaceful progress of the country, and I oppose that which

*Speech not corrected by the Honourable Member.

deters that peaceful progress, no matter whether Government are in its favour or not. My conviction, my unbiassed opinion is that grounds have not been made out for the repeal of these laws. With these observations I oppose the Bill.

THE HONOURABLE MR. R. P. KARANDIKAR: I rejoice to think and to express in very plain terms that I feel not at all perplexed as to how to vote in respect of this motion. After the very vigorous and splendid speech that the Council has heard from my Honourable friend, Sir Maneckji Dadabhoy, I was at one time inclined to think silence was golden. Finding however that my Honourable friend had a fling at the Swarajists, and I think partly unnecessarily —perhaps he is perplexed at the thought that the ranks of the Swarajists are swelling and that those people in the Assembly who appeared at first to be Independents are in their heart of hearts Swarajists, and a compliment which the Swarajists really deserve—I really think that there is a great loss to the public at large that the Honourable Sir Maneckji Dadabhoy has not had any occasion to address any public platform in the manner in which he addressed his remarks to this Council. It is indeed a great loss because the public would have been benefited by the remarks that he offered. At one time he forgot that he was addressing the Council and had to be pulled up to address the Chair. I really feel that there could be no difficulty in understanding the real situation. Questions were asked as to whether the Swarajists could be in need of such legislation. Of course, I do not care what the Swarajists in the future may say, but I can say on this occasion that we at least here in this Council ought not to set an example of this kind to the Swarajist Government should it ever come into operation. For the matter of that I would be disinclined to transmit to the Swarajist Government any legislation which aims at the incarceration of people without trial and forfeiture without trial. If there is any motto on which a Swarajist Government could be based and could hope to succeed it should be this, that there shall be no incarceration without trial, nor any forfeiture of property without trial.

THE HONOURABLE SIR MANECKJI DADABHOY: What happened in Mughal Emperors' time ?

THE HONOURABLE SAIYID RAZA ALI: That was 300 years back.

THE HONOURABLE MR. R. P. KARANDIKAR: I am not going to answer that question because history has sufficiently answered it. But since the question has been asked, I will ask Government not to follow in the wake of the Muhammadan Government or for the matter of that the Brahmin Government, an embodiment of which you will find in my humble person. At a meeting in London I was asked to speak on behalf of the Brahmins. I found myself the only Brahmin there. I told my audience that if they wanted to profit by the history of the Brahmin rule they should take care not to repeat their mistakes. They committed their mistakes. They suffered for them. They had their special laws and Brahmin rule suffered. I ask Government therefore to abstain from perpetuating any special laws in any matter whatsoever. I really feel that it is not so much the repressive laws that make people good and honest but it is the sense of justice these people have in their heart of hearts, the faith they have got in the justice

4 P.M.

[Mr. R. P. Karandikar.]

administered by the High Courts. Whenever therefore there is any measure which takes away the right of the High Court to interfere, whenever there are incarcerations without trial or forfeiture without trial, surely the public at large would not be satisfied with enactments which permit such things, and the sooner they are removed from the Statute-book of India, the greater the regard will people have for the justice for which alone British rule is perpetuated in this country. I do not belong to the generation which can hope to have any office in the Swarajist Government hereafter. Nor for the matter of that do I care for being elected next time. That does not affect me in the least. I am speaking on behalf of the whole of India. I think it would be disastrous to the real interests of India to show to the outer world that the whole of India is seething with sedition, and plundering, murders and dacoities. I appeal to this House not to yield to descriptions of this kind. They do not stop here.

THE HONOURABLE SIR MANECKJI DADABHOY: Do you still talk like this in the face of incidents in Chauri Chaura and other places?

THE HONOURABLE MR. R. P. KARANDIKAR: In a country which, as I have often observed, is seven times as large as the United Kingdom and 16 times as large in population, which is in fact a continent, it is useless to talk of a riot here and a riot there and to fill nervous people with the thought that the whole of India is in that condition. I would ask you in all earnestness not to be carried away by such a description of India. I would ask Members of the House to remember that it is not people in India only who will look at to-day's debates in the papers. The whole world will be watching to see what the Council of State is doing in matters of this kind. Is it a good picture to show to the outside world and to all civilised nations that in respect of a measure which has been passed by the Assembly this House should not even show the concession of giving due consideration to that measure, remembering the kind of people that supported the measure in the other place and the intellectual contribution that they made in regard to the discussion of that measure? I find, very unhappily, references were made to another House, the lower House, the Assembly, as if they were not our brethren. They are the real representatives of the people, not the aristocracy that is represented here. (*The Honourable Sir Maneckji Dadabhoy:* "Question.") That question will have to be solved by future generations. That may be solved shortly and I hope perhaps in my own life time, when you will find the Swaraj Government leading this Government on to a better end. To-day, what I am anxious to do is to place this Government on a sounder footing. Why should anybody complain in this House that we are trying to deprive the Government of their power? What is the power of Government? Is it to hold people under subjection? People must support the Government and then alone will it be strong. No measure of this kind can make the Government strong unless you convince the people that it is necessary and it is very difficult for these people to be convinced. When I say people, I include myself. I know that many people think that their safety is in danger. There are nervous people who think that their self-dependence, self-reliance is sought to be encroached on by passing measures of this kind or retaining measures of this kind. The one principle therefore which ought to actuate us in retain-

ing on the Statute-book any measure which is recognised as law is that we do not interfere with the freedom of the person, liberty of speech and order forfeiture of property without trial. I would ask this House not to consider that this measure has been proposed either by the Swaraj Party or some other party. It comes up before this House as a measure asked for by the whole country as represented by the Assembly. That is the view which must appertain to a measure of this kind and I therefore appeal to this House to look upon this measure dispassionately, without nervous attacks which are liable to be produced as a consequence of the descriptions which you have had from the splendid and vigorous speech of the Honourable Sir Maneckji Dadabhoy which would have done credit to any platform. But I guarantee that if his speech to-day had been made on a public platform where there could have been an expression of unfettered public opinion, unguarded by the sanctity of this House, the Honourable Sir Maneckji Dadabhoy would have learnt something of what the people think. But I know that the Honourable Sir Maneckji Dadabhoy does not care for it. He said he did not hold a brief for Government but the major part of his speech showed that he did hold a brief. At the same time the Government Benches are quite able to take care of themselves but in addition to their ability and power, they have got this sort of advocacy at their behest and at their service. (*The Honourable Sir Maneckji Dadabhoy*: "Plain speaking is always unpalatable.") In spite of all the arguments that we have heard to-day, I think there are many Members of this Council who think that those who differ from the Honourable Sir Maneckji Dadabhoy have also got a case which has got to be respected. I wish I had his vigour and his adjustment to convince you that I have a right cause, the cause of honesty, the cause of righteousness and not the sort of cause which has got to be supported by measures which are questionable in their character such as the five Acts now before you. I really feel that this measure ought to be supported.

THE HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Sir, I wish to support this Bill. It may be asked why I opposed the amendments but still support the Bill. I reply that I am in sympathy with the repealing of all these measures, but I am not in sympathy with delaying measures or with the dilatory proposals that were made. I oppose dilatory measures, and I am glad I have now the opportunity of speaking on the measure itself. I will not indicate my personal inconvenience because that is a matter of small importance, nor dwell upon personal matters. With your leave, I shall take the concluding arguments that were urged by my Honourable friend, Mr. Crerar, and we shall see how far these arguments are correct or can stand. The first argument was—and here let us begin with this admission, as in courts we would like the admission of the opposite party—there is one admission here, and that admission is that these laws really do not represent the ideals of jurisprudence. He admitted that fact, but he said that the necessities of the situation are such that we are compelled to have these measures. Yet about those necessities I shall speak later, but at present I thank him for having made an admission that these are not laws that jurisprudence supports, nor are these laws such as English history would support. I should like to see a measure of this kind being introduced in England and then we would hear

[Mr. G. S. Khaparde.]

more about it. As a matter of fact laws that transgress the ordinary and the fundamental principles of jurisprudence really stand condemned by themselves. If it is not necessary to use them, well, drop them as fast as you possibly can. When I say, "Drop them at once", I remember the arguments that were advanced when the report of the Repressive Laws Committee was being written—and the happenings, such as Chauri Chaura and all these things which were represented by my Honourable friend on my right. I say it is all right, but at the time when I am speaking, there is no such event known in India. Whatever may have been the reasons at that time, there is no such thing existing now, and therefore I say that the sooner you drop these laws, the better. Constantly keeping up the whip in hand and constantly indulging in threats only provoke opposition : it is much better to drop these harsh measures, and you will then see that the people against whom your action is directed will drop all that they are doing. I know that hard things have been said by others, and I am sorry that they have been said ; but I am also equally certain that if you do not hold this sword of Damocles over their heads, they would not say all these things. The world is like a mirror. If you look and laugh, the world laughs back ; if you frown, the world will frown ; if you show your fist, there is the same picture reflected. Therefore, let us not always have these laws hanging over the heads of the people, showing how strong you are and always threatening to beat the people, and showing that the Government are strong enough and will repress all these things. I submit that retaining these laws only antagonizes the people. That is the unfortunate thing, but a fundamental thing in human nature. If I show force, then the reply to it is force. But if I try to persuade people and succeed in persuading the people, there is no bitterness left behind. I do not think it is paying a great compliment to the British Government to say that although they have been here two centuries, yet the country is seething with sedition, that there are people who will run at each other's throats, if these laws are repealed, and that this will happen and that that will happen. I shall only ask the question, 'What have you been doing the last 200 years if you have not civilised the country to this extent ?' This is not a country inhabited by barbarians ; it is a country inhabited by civilised Hindus, civilised Muhammadans, civilised Parsis. We are not barbarians or primitive people roaming about forests : and if 200 years of administration have not improved us to this extent, what shall we say ? I think we *have* been improved, and those who say that we shall run at each other's throats pay a very very poor compliment indeed to the British Government on the splendid service that the British have done and the splendid service they are doing in India. You ignore the good things they have done. Don't be afraid of it. There may have been indiscretions done. Even in 1921 there may have been wrong things done, but that does not mean that that will happen again in 1925. These are popular waves of agitation, waves of excitement, and these waves do come. They pass away also very soon. If they do not pass away, they would be a menace, but my experience of life is that all these things come temporarily, they catch the fancy of the people, people talk a great deal about them, and then they forget all about them. And the evidence of this is to be found in the circumstance, as some of my friends

have been saying, that there is a different temper prevailing, that there is not that amount of bitterness in the other House also that there used to be, and my Honourable friend, Mr. Karandikar, rightly I think resented some of these observations that were made against the other House.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, may I rise to make a personal explanation? Both the Honourable Mr. Karandikar and the Honourable Mr. Khaparde have mentioned that I made observations against Swarajists in the other House. That statement is wholly untrue. What I said was this, which I will repeat again for the information of Honourable Members. The Honourable Mr. Ramadas in his opening speech said....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member please repeat what he said, and not refer to the Honourable Mr. Ramadas's speech?

THE HONOURABLE SIR MANECKJI DADABHOY: It was stated in his opening speech....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member say what *he* said?

THE HONOURABLE SIR MANECKJI DADABHOY: What I said, Sir, was that it was true that most of the Independents or rather that some of the Independents in the Assembly supported the Bill, and I said that that was a perfectly true statement. But I said that a close study of the proceedings of that House convinced me that many of these Independents who called themselves Independents were in their heart of hearts Swarajists, and they traded under a different name. I said that not by way of disparagement.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Khaparde.

THE HONOURABLE MR. G. S. KHAPARDE: I am very glad the Honourable gentleman on my right has admitted what he said, and when he said that they were Swarajists at heart, I believe he did not mean it as a compliment but meant something else. To say that someone is something but he is a Swarajist at heart means that Swarajists have got a bad tradition, and you cannot get away from that. That is the ordinary way. You remember in the play of Othello there is a man called Iago. Brabuntis, the father of Desdemona, appears on the balcony and says, 'why do you appear before my house?' So this man says, "Sir, you are a councillor". That means, that "you are a fool." This has been interpreted by commentators, and whoever read that part of the play knows it. So to say that "you are a councillor" means something different; and to say that so and so is a Swarajist at heart means that he is an anarchist at heart. (*The Honourable Mr. R. P. Karandikar*: "No, not an anarchist.") You put them higher. I put them a little lower. As I was saying, there are people who give you terrible pictures of events, which they think are bound to happen as a consequence of the repeal of these Acts. I have listened to that eloquent picture which was portrayed before me of the cruelties that will be perpetrated. It is all very well poetically. As a matter of fact, it is not true. The world existed and India existed before

[Mr. G. S. Khaparde.]

these laws were enacted and I believe will exist after these laws are taken away, more especially when we have had so much good training in the art of government, in debates and assemblies and other things. All these things will not be lost in a day. There is nothing of this kind going on at present when I am speaking and asking the Council to repeal these laws. There is no threat. It was mentioned that Bolsheviks have come, but they are not within my boundary anyhow. There is a strong Government between me and the Bolsheviks still. So these are all imaginary things. I will just give you a small story, not a long one. A man was lying down. It so happened that a rat jumped over him. He said to himself: "Oh, to-day the mouse has jumped over me; to-morrow the cat following the rat will jump over me; then the dog following the cat will jump over me; then the man riding the horse will jump over me and then the carriage will come over me and I shall be crushed." Then he began to cry. This is something like what we have heard. I say, have a little courage, have a little patience and have strength. The British Government have been here for some time and they have done very good work. They have got the nerve; they have got the power and therefore there is no fear like this. Do not magnify it. The fact of the matter is, as was mentioned, that it goes against the grain of every Englishman to have a man condemned unheard as it is called. If I have understood English history properly, then I can say that it is very difficult to convince an Englishman that a man should be or can be convicted unheard. The case to-day is still worse. The man is not only convicted unheard but is even carried way from us and is detained in a separate place from where you get no news. The whole thing is terrible and goes against the grain of every Englishman. I know that at Home these laws will not be supported. In England unfortunately false ideas have been kept up which go to show that India is seething with sedition. I do not say that these ideas have been kept up intentionally but very likely unconsciously. They have been kept up because sensation-mongering is one of the defects of the present day newspapers. The present day journalism indulges a great deal in such sensations. People are willing to read these sensations. Probably they do not believe in them. I do not think, if votes were taken, you would get many votes in favour of detention without trial, nor would you get many votes for the argument that has been put forward, namely, that the Judges have examined all the cases that were submitted to them. If I remember aright, there were some 90 cases and the Judges did not disagree even with one of them. I wish that argument had not been used. I say this for this reason. How can you expect a musician to make you music without his instruments and a painter to paint a picture without his brushes? Similarly a Judge must have both sides of the case before him if he is to decide the case properly. No Judge can decide unless he has both parties before him and not only the parties but the ablest lawyers on both sides. It is only when these lawyers argue the matter out that a Judge can come to a right conculsion. You say that these cases were approved by the Judges, but may I know what evidence they had before them?

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Evidence!

THE HONOURABLE MR. G. S. KHAPARDE: Evidence, of course. The Judges will ask for evidence before they believe you. They do not take you at your word. They always want evidence before them. However, we shall pass on further.

The next argument that was put was that even Judges go wrong after they have had both the parties before them and after the cases were argued by the parties. Therefore, the inference drawn by my Honourable friend to the right was that the Executive Government should be armed with powers to do so. He contended that, what is the good of lawyers when the Judges also go wrong? Why not, therefore, let the Executive Government go wrong? That is a wild argument and an unsound argument. Truth is difficult to discover and even Judges who are trained to weigh evidence and used to dissect evidence sometimes go wrong? Then how much more would the Executive Government go wrong? The Executive Government will decide matters upon the reports submitted to them by these subordinate officers. Therefore, I say, the conclusion is that in order to do justice we should hedge the Executive Government round with all possible difficulties and make it difficult for them to come to a hasty conclusion. That is my conclusion. It would not be the right inference that because the Judges go wrong therefore the Executive Government should get a sort of free ticket to do what they like. In cases of emergency the Executive Government should have extraordinary powers. But as soon as this emergency has disappeared, the ordinary judicial law should come into force. Therefore this trial or this condemnation without trial ought to go. Such things ought to be very strictly limited. Unfortunately I have not brought my book, but I think the Repressive Laws Committee said that this Regulation III of 1818 should be confined to the borders and to the frontiers and should not be brought into provinces, and so on. These are all the recommendations that were made by the Repressive Laws Committee. Therefore, I submit that the arguments that were first urged that the cases were submitted to the Judges do not carry the matter very far. It does not make any difference that the Bill first appeared in one shape and then it was changed. We are considering the Bill as it was passed by the Assembly. So, its past history is, to a great extent, irrelevant. I quite appreciate the argument that we may have a request from Germany that some of our bad characters have crossed our borders and that they should be turned back. But Germans are very wise and good chaps after all. But I say if we have got bad characters we know how to deal with them. We have got enough provisions to deal with them in the Indian Penal Code and in the Criminal Procedure Code. If there are very very bad characters we can put them before the court and get them hanged. There is nothing much about it. Then they say that the Bolsheviks have come in. That is an old story. It is no good magnifying fears in that way. It is only good for timid people but not for strong people, who do not indulge in that sort of thing. I take great objection to that part of Mr. Crerar's speech where he said that people who talk about repealing these laws, really wish to weaken the Executive Government. I think he said so. I took a note of it. I submit this is not so. At any rate, you cannot accuse the Right Honourable Srinivasa Sastri of devising a measure to weaken the Government and to

[Mr. G. S. Khaparde.]

strengthen the Swarajist. That sort of accusation was not made then and I do not think anybody will make it now.

And even if there is such a person who makes that accusation, I shall read to him the last words that the Right Honourable Srinivasa Sastri spoke:

"One word more ...."

That is, on the 14th of February 1921 when we sat for the first time to transact business. As I said, he said:

"One word more. In giving such liberties as may seem suitable, in taking such steps as may seem advisable, let there be no reservations to the extent that you wish to go. Go ahead bravely and not haltingly. It is the most essential condition of success in this great work. But has no buts; let there not be a superabundance of ifs. So working we certainly will do what no other people in the world have done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods."

Here perhaps at that time when he said these words he imagined that some people would charge him with weakening the Executive Government, and he therefore forestalled them by giving utterance to these words. One of the conditions of success, either in battle or argument or in anything else, is that you must have confidence in yourself and you must not believe that such a thing will happen. That will make you timid and you will not be able to argue as well nor fight as well as you would otherwise do. If you wish to succeed, if we want to have a good and strong Government, that Government must also be a confident Government, not afraid every minute of meeting a ghost round the corner or meeting a bad man or a seditionist. There is no use being timid in a matter of this kind. There is no need to tell it to this House in which there are trained and educated people present. Even wild beasts can be trained only by your own confidence. If you get into the cage and are afraid, the tiger will eat you. If you go in with confidence and show the tiger your weapon, he will not do that. I therefore say that the better course is not to be timid. We do not want to weaken the Government. It is the other way round. The Right Honourable Srinivasa Sastri said that this is a time when we are beginning a new constitution, a new Assembly, and everything new, and therefore let us begin with goodwill on all sides; let us take it for granted that everybody has got the goodwill. Do not wait to find out whether a man has the good will. Go on, and if he displays ill-will there is the Penal Code to deal with him; if he does not, so much the better. It is exactly the way in which a man goes to the tiger's cage. If the tiger does all you want him to do, it is all right; if he does not, you carry a small pistol with you. Something of that kind has to be done. These are all trained administrators and it is not for a man like me to say how the administration has to be carried on, but the fact is that one must have confidence in himself and should not imagine ghosts coming. He should not imagine things in that way. That is what the Right Honourable Sastri means and that is what I have meant and wish to mean. Let us not be deterred by these fears, by these craven fears. Set them aside and say, "I am generous with you; I repeal all these laws. I hope you will not compel me to revive them; you will not compel me to go back on that. If you do, take care

what will happen. But I hope you will behave yourself." And nothing will go wrong. After all is said, what is to be done? Nothing at all. There is nobody to be threatened. And as my friends have said, even the poor Swarajists who were so bad are showing a good front and coming round, coming round to responsive co-operation. I am very glad to hear that. It is very good news to me. I am pleased with it. I say that this Bill should be passed as it is, and if within a few months or within a few days things that are threatened do come about, we are always at your disposal. You can pass any laws you like within 24 hours. For the matter of that you have got ready powers of Ordinance at the disposal of His Excellency the Viceroy. No Council is necessary, no legislation is necessary if the situation arises. Having those powers, having the power of making Ordinances at your disposal, having all that wealth at your disposal, having strength of men at your disposal and having a large army at your disposal, I do not quite understand why you should fight about little Bills. About one Bill, it will do nothing. I am rather amused about it. That Bill is not in force in any part of India. Why not then abolish it? Is it an ornament and is it because you like to say "I have got that Bill, it is very nice", that you want to retain it? Superfluous legislation is a curse. It ought not to be indulged in. Some of our Acts have been taken bodily from English laws; they are a little bit subtle and they carry the matter much further. The person who wants to avoid it goes one better, because he learns things from the laws which we give him. It is no good having superfluous laws, unnecessary laws, antiquated laws. We have no contempt for antiquity. We always think that the more ancient a thing is the better it will be. That is our tradition. The oldest is the best. We do not dislike antiquity. This law was enacted in circumstances which have ceased to exist now. These things were done when the British Government in India was comparatively very small and they had many necessities which do not exist now. And now, the British Empire, I mean the Indo-British Empire, extends from the Himalayas to Cape Comorin and that was not the condition in 1818 when these laws were enacted. With prosperity, with better government, with a larger extent of area, with more civilised people who are used in runing the administration, I think it is just as well to get rid of all these laws, antiquated laws, as they are called; and if it becomes necessary to enact those laws, within 24 hours an Ordinance can be issued and within two months of that the Legislature will assemble and you can .....

THE HONOURABLE THE PRESIDENT: I am very loath to interrupt the Honourable Member, but the hour is getting late. (The Honourable Member did not resume his seat). Order, order. (The Honourable Member then resumed his seat.) I was saying that I was very loath to interrupt the Honourable Member, but the hour is getting late and I must invite his attention to the fact that he is indulging in a wearisome repetition of his own arguments, repetition of his own statements.

THE HONOURABLE MR. G. S. KHAPARDE: I am very sorry, Sir; if I have indulged in repetition, perhaps speaking sometimes I lose my sense of proportion also. (Laughter.) I was endeavouring to bring forward a few arguments that were left. I have finished the first page of my notes. There are some more points. I have dealt with the question of these Bolsheviks and all

[Mr. G. S. Khaparde.]

that sort of thing. I was speaking about the Act of 1911 which is not in force anywhere, and therefore I said if it is not in force anywhere and there appears to be no inconvenience caused by its not being enforced, it may as well be repealed. That was...

THE HONOURABLE THE PRESIDENT : Order, order. This is the third time that the Honourable Member has said that.

THE HONOURABLE Mr. G. S. KHAPARDE : Sometimes, Sir, a thing has to be impressed by repetition. However, I shall finish that argument and that argument is that I opposed the motion for the Select Committee, but I support the passing of this Bill ; and if necessity arises, which I hope will not arise, fresh legislation can be resorted to ; Government have also the power of making Ordinances in their hands. With these words, I support the passing of this measure.

THE HONOURABLE MR. V. RAMADAS PANTULU : Sir, I intend replying very briefly to the many points that were raised in the course of the debate, and I shall take up as little time of the Council as possible. First of all, Sir, I wish to state that I do not owe any apology to anyone nor do I claim the sympathy or indulgence of anyone for having brought this motion before this House. I did what I considered to be my duty in asking this House to take into consideration a Bill which was passed by a very large majority of the Legislative Assembly.

I make only a very modest request. I do not make any extravagant demand. The present stage of my motion is only to request the House to take the Bill into consideration, and we have not come to the stage of its being passed. If you agree to this motion, namely, to take the Bill into consideration I believe it will be open to the Honourable Members of this House, who feel that they cannot go the whole hog with me, to press such amendments as they may desire to do. Therefore, I earnestly request the House for an opportunity to consider the Bill which was passed by the Assembly. I am thankful to the Honourable Mr. Crerar for conceding that he himself realised the force of my attack upon these laws as being somewhat archaic and opposed to modern jurisprudence. But he claimed to brush aside all notions of modern civilised jurisprudence and juridical ideas in view of what he called certain facts. I submit that I do not feel impressed by the facts that he has enumerated as proving the necessity for retaining these repressive laws on the Statute-book. It is not possible for me at this late hour to show that the ordinary law of the country is enough to meet the needs of any situation such as the one he has described in his speech. The point, however, which was made in the course of this debate, as well as the debate in the other House, is that while the ordinary law might possibly cover the offences which these ancient Regulations were intended to deal with, there may be cases in which evidence may not be forthcoming or it may not be desirable, in public interests, to try the offenders in open courts.

That is the chief argument which has been pressed time and again against a repeal of these repressive laws. I submit that that very argument shows the

unsoundness of the position taken up by the Government. The Honourable Sir Maneckji Dadabhoy referred to the fact that there were instances in which Judges had gone wrong. If it were so, I say it is an *a fortiori* case in which the Executive tries to deal with so-called offenders upon *ex parte* evidence and upon evidence which the person accused has no chance of explaining or controverting. It *a fortiori* follows that the dangers are greater. If for any matters, other than internal order and peace, Government wanted to retain extraordinary powers the Repressive Laws Committee had shown very clearly what ought to be done. On this matter, I wish to state in answer to my Honourable friend, Sir Maneckji Dadabhoy's statement (that the Repressive Laws Committee did not recommend a repeal of these Regulations) that I emphatically assert that they did recommend a repeal of these Regulations. They made a reservation in favour of certain powers, other than those relating to internal commotion, and in the case of internal commotion they wanted to restrict it to the "inflammable frontier". They suggested that a legal expert might deal with the method in which the reservation may be given effect to, and apparently they meant that suitable legislation might be introduced so far as reserving those powers and the powers which dealt with foreign relations, relations with Native States and the security of British dominions from foreign hostility was concerned. I will only read one sentence from the report of the Committee, which I think will bear out my contention :

> "The retention of these Acts could in many cases only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency we advocate their immediate repeal."

I have carefully read that paragraph more than once and I submit that it related to all these Acts. I know that there is a separate paragraph which says :

> "We desire to make it clear that the restrictions which we contemplate in this connection are not penal in character. We are satisfied that they have not been so.....The reservation may also involve the retention in a modified form of the State Prisoners' Act of 1858. But this is a matter for legal experts.....".

Therefore they say that if any extraordinary powers relating to foreign relations and things of that kind have to be reserved it must be by means of legislation undertaken after expert advice. So, I am right in saying that the Government have not given effect to the recommendations of that Committee. If the Government thought that they could themselves make reservations by retaining the enactments *in toto* on the Statute-book there was really no use in appointing such a Committee. If they had any doubt as to how they should proceed, they should have summoned that Committee again and asked them for revised recommendations. The Government have done nothing of the sort. I feel therefore that I am right in saying that Government have gone back on the undertaking which they gave in September 1921.

In justification of the retention of these Statutes, the Honourable Mr. Crerar said that there were many potentialities in the present situation the dangers of which it was not possible to contemplate ; he however enumerated a few of the old dangers ; but he added to them a new one. He said that the German Government wanted protection against Indian Communists. I only dread to think of the future of this unhappy country, if among the reasons for which the bureaucracy in this country claims to retain very drastic and

[Mr. V. Ramadas Pantulu.]

repressive laws on the Statute-book, they press into service the obligations arising from international complications and the growth and rise of Bolshevism and Communism in European countries. I do not think that the potentialities pointed out by the Honourable Mr. Crerar are such as to justify the bureaucracy in retaining these powers.

Then, Sir, with regard to the uses to which these laws were put, it is a matter of opinion. Whether those laws were used to suppress legitimate political opinion and agitation or only used for the purposes for which they were intended is a matter largely of opinion and of inference based upon facts. I can assert, with some amount of confidence, that a large volume of Indian public opinion thinks that these Acts are being put to such a use. I was present at a conference which was held recently in Bombay, presided over by the Right Honourable V. S. Srinivasa Sastri, in which all parties in the country were represented. I never attended a conference during the last 25 years of my public life which was so representative in character and which discussed matters in so dispassionate a manner as that unity conference did. That conference passed a unanimous resolution that the Bengal Regulation and the subsequent Ordinance were aimed at the Swarajist movement. I have already told you that Mahatma Gandhi, who is never satisfied without sifting the facts very carefully, gave it as his opinion, after deliberation, that the Regulation and the Ordinance were aimed at the Swarajists. Therefore, it is a matter of choice of opinion. If the Honourable Mr. Crerar is of another opinion we cannot help it, but I may say I voice the contrary opinion which is held by my countrymen, a very large number of my countrymen.

With regard to the arguments adduced by my Honourable friend Sir Maneckji Dadabhoy I will only make a brief reply. He said that the antiquity of these measures is a point in their favour. I was somewhat surprised to hear such an argument from so astute a publicist. In matters of penology and criminal jurisprudence standards of conduct vary very greatly from time to time and conduct which was penal in 1818 cannot necessarily be penal in 1919. And to say that what suited the conditions and needs of the people in 1818 would equally suit the people in this century is an argument which really takes my breath away. With regard to his other arguments, my friends the Honourable Mr. Karandikar and the Honourable Mr. Khaparde have dealt with them and I do not therefore propose to deal with them. I will deal only with one remark which he emphasized,—namely, that these laws were absolutely necessary for the purpose for which they were intended. Even on that matter I am willing to join issue with him, but I do not propose to do so. There are many laws which I can point out, such as the Foreign Jurisdiction Act and the Acts of 1864 and various old Regulations which give powers to deal with interlopers and British subjects who are creating trouble in Native States. These powers are still in the hands of Government but that is a different matter. My point is that the ordinary laws themselves are sufficient and more than enough to deal with every conceivable form of offence against the State. The Indian Penal Code has a special Chapter dealing exhaustively with offences against the State and my friend has not taken the trouble to point out which sections of these

Regulations are intended to cover cases not already covered by the Indian Penal Code.

There is only one remark of the Honourable Mr. Crerar with regard to the Moplah rebellion with which I want to deal. I am sorry that he entirely misunderstood me. I took care to say that the absence of the Regulation would not have handicapped the Government. I know that the Regulation was used very vigorously against the Moplahs and even after the rebellion was suppressed it is being used to deport them to various places like the Andamans, and there is a large volume of opinion against the improper exercise of that Regulation by the Government of Madras. My point was that the rebellion was itself suppressed under martial law and that the Moplah Outrages Act, which is still on the Statute-book and which this Bill specifically saves from repeal, arms the Government with ample powers which they can wield and there is really no power which they cannot wield under that. So it was merely to keep it alive that the older Regulation was used. My point was that there was no necessity to use it.

Finally, I will give a word of personal explanation. My friends Sir Deva Prasad Sarvadhikary and Sir Maneckji Dadabhoy have tried to refute that portion of my speech which related to my reference to the electorate. I am afraid they have misunderstood both the letter and the spirit of my remarks. I never asked any Member of this House to vote in fear of the electorate. When I asked you to vote without fear of this mighty British Government, I am the last person to ask you to vote in fear of the electorates. These are the words I used :

"Many of you will have to face your electorates very soon to seek re-election to this Chamber. You cannot do so justly if you do not voice their feelings in this vital matter. The theory that the elected representatives are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one. We have no justification to sit here and vote against the wishes of those who returned us."

I adhere to these words and I do not feel ashamed of them. I say that we are bound to represent the interests of our constituents. That is the point I made. I did not ask you in any manner whatever to regulate your conduct in any fear of the electorate. I am the last man to say that.

In asking you to consider this measure, I am making a very moderate request. I beg to emphasize the fact that the stage of civilisation reached by any nation is judged by outsiders by its laws and I think it will be a grave reflection upon the British Government and their work for a century and a half in this country if they allow these old Regulations to remain on the Statute-book It would be a sad commentary on the way they governed this country and trained the people for self-government. In the good name of British Government and in the good name of British India I would ask you to allow this motion to be considered.

I am as anxious as everybody else not to weaken the hands of Government and I am convinced that the hands of Government will not be weakened by the repeal of these Regulations. I know that the Government themselves thought so in 1921 when they whole-heartedly accepted the recommendations

[Mr. V. Ramadas Pantulu.]

of the Repressive Laws Committee and promised to introduce legislation for their repeal as soon as may be. Therefore I do not desire to weaken anybody's hands. It is true that I am averse to leaving in the hands of the Executive extraordinary and dangerous powers in this country for one reason, that is, because the Executive is not responsible to the Legislatures and is not also responsive to public opinion. When the Executive becomes responsible to the Legislatures and responsive to public opinion, there may be more reason for placing in its hands extraordinary powers, because we can regulate the use of these powers and we can have a check upon their improper use. So long as you are not responsible to the Legislature and responsive to public opinion, I do object and most strongly object to the retention of these powers in your hands. Therefore hasten that day when you will give responsible Government to this country and then you may have even greater powers. At the present stage you cannot retain them. If India is to attain liberty, she cannot have the Damocles' Sword of these repressive laws hanging over her head. You cannot ask the people of this country to eke out their existence in perpetual dread of the bureaucracy. This is not a condition of things which will permit the growth of Parliamentary institutions or responsible government which everybody professes to have so much at heart.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I do not intend to detain the House at any length while I briefly summarise the attitude of Government on the debate. I am sure that both the Honourable and learned gentleman opposite and I must agree that the necessarily divergent points of view which we have laid before the House have received a patient and an impartial hearing the result has certainly been to clarify the issue before the House and my sole purpose is now to make perfectly clear what that issue is. The issue now beyond any question whatsoever is the total and unqualified repeal of the laws standing in the Schedule. It is that and nothing else. My Honourable and learned friend from the United Provinces expressed himself somewhat pathetically as being on the horns of a dilemma. I should like to point out that if the dilemma exists at all, it has only one horn and to escape it, the Honourable gentleman has only to exercise a little moral courage, without any demand whatsoever upon the intellectual agility which at other times he is perfectly capable of displaying. The Honourable Member quoted a Persian proverb enjoining silence on the prudent. Permit me to reply to him with another:

Ta mard sakhun na gufta bashad
aib-o-hunarash nahufta bashad.

I think, Sir, that applies not only to a man when he makes a speech but also to him when he says "Aye" or "No" on a division. Well, Sir, the issue is perfectly clear. My Honourable and learned friend the Mover has made an ingenuous appeal to the House to pass this motion for consideration on the ground that it will then be enabled to amend these laws as it chooses. Permit me to point out that that incorrectly states the case. If the House passes this motion for consideration it will be committed to the principle of this Bill, even more specifically than if it had passed the amendment for reference to a Select Committee.

The issue therefore is perfectly clear. My Honourable friend opposite says that he reverts to his original proposition that the ordinary law of the land is sufficient to deal with all the circumstances of the case. My complaint is that the Honourable Member did not make, nor did any other Honourable Member who spoke on his side make, any serious attempt to deal with the true facts of the situation which I placed before the House. Nor is the present contention in any closer contact with the facts. The plain fact is that the ordinary law of the land is essentially penal and punitive law. It is not preventive law : and the main purpose of the Regulations, the main purpose of the Seditious Meetings Act, is not penal but preventive. That is the substance of my reply to the Honourable Member's point that the existing law is sufficient to meet the case. I have only one more word to say and that is to refer to the remarks made by my Honourable friend Mr. Khaparde. He dealt with the matter at very considerable length; and I was pleased, I was gratified, to draw two inferences from what he had to say. The first was that he did not take this motion very seriously ; and the second was that he congratulated himself on the fact that he still had a strong Government, as he said himself, subsisting between him and the forces of disorder. I think that sentiment will be shared by more Honourable Members than the Honourable Mr. Khaparde, and it is largely under the inspiration of that sentiment that I should advise them to give their verdict on this issue.

5 P.M.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration."

The Council divided :

AYES—9.

Borooah, Srijut Chandradhar.	Ramadas Pantulu, Mr. V.
Karandikar, Mr. R. P.	Sarvadhikary, Dr. Sir Deva Prasad.
Khaparde, Mr. G. S.	Sethna, Mr. Phiroze C.
Manmohandas Ramji, Mr.	Vedamurti, Mr. S.
Mitter, Dr. D. N.	

NOES—29.

Abbot, Mr. E. R.	Laird-MacGregor, Mr. E. G. L.
Akbar Khan, Major Nawab Muhammad.	MacWatt, Major-General Sir Charlest.
Aman Ali, Khan Bahadur.	McWatters, Mr. A. C.
Amiruddeen Ahmad Khan, Nawab Bahadur Sir.	Misra, Pandit S. B.
Chadwick, Mr. D. T.	Mitra, Mr. K. N.
Charanjit Singh, Sardar.	Parsons, Mr. A. A. L.
Commander-in-Chief, H. E. the	Rampal Singh, Raja Sir.
Crerar, Mr. J.	Ram Saran Das, Rai Bahadur Lala.
Currie, Sir William.	Roy, Mr. K. C.
Dadabhoy, Sir Maneckji.	Sarma, Sir Narasimha.
Dutt, Mr. P. C.	Sen, Mr. B. C.
Fazl-i-Husain, Mian Sir.	Tek Chand, Diwan.
Froom, Sir Arthur.	Thompson, Mr. J. P.
Ismail Khan, Haji Chowdhuri Muhammad.	Wacha, Sir Dinshaw.
	Zahir-ud-din, Khan Bahadur Saiyid.

The motion was negatived.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, on Monday next motions will be made for the consideration and passing of the five Government Bills laid on the table during the course of the present week.

On Wednesday the 9th September the Honourable Mr. Crerar will move his Resolution regarding the amendment of the Electoral Rules in the manner recommended by the Reforms Inquiry Committee.

I understand, Sir, that you have admitted the Resolution regarding the grant of a bounty on steel manufactured in India between the 1st October 1925 and 31st March 1927 of which notice was given yesterday by the Honourable Mr. Chadwick and that you will be prepared to permit the Resolution to be moved on the 9th September before the usual period of notice expires. If this is so, Sir, the Resolution in question will also be moved on that day.

Friday the 11th and Saturday the 12th September will be set apart for the discussion firstly of the Honourable Mr. Crerar's main Resolution on the majority report of the Reforms Inquiry Committee the text of which was read to the Council by you, Sir, on Tuesday last and which has since been communicated to Honourable Members, secondly of the Honourable Sir Deva Prasad Sarvadhikary's Resolution recommending the formation of a convention to draft a constitution for British India, and thirdly of the Honourable Mr. Phiroze C. Sethna's Resolution regarding provincial autonomy which was ballotted for the 10th September but which the Honourable Member has agreed to postpone till after the main Government Resolution on the subject of the Reforms Inquiry Report has been disposed of.

For the week opening on Monday the 14th September there will remain the Honourable Mr. Crerar's Resolution regarding the amendment of the Indian Legislative Rules and Standing Orders to provide for the constitution of Select Committees to deal with Bills relating to Hindu and Muhammadan Law, and also legislative business the precise nature and extent of which will depend on the course of events elsewhere.

The remaining non-official days are the 8th, 10th and 15th September and the business ballotted for those days has been communicated to Honourable Members.

I may add for the information of Honourable Members that so far as can be foreseen at present the business of the Session is likely to be concluded on or about Thursday, the 17th September.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: The Honourable the Leader of the House has not mentioned my other Resolution about the delegation of the Reforms Committee's Report to the Convention that I seek to set up by another Resolution.

THE HONOURABLE SIR NARASIMHA SARMA: We promised that the Resolutions of which he had given notice and which were ballotted for already could be moved either as independent Resolutions or as amendments. If the Resolution, of which the Honourable Member speaks, is one which cannot by means of an amendment be incorporated in the Resolution or moved by means of an amendment to the Resolution, then certainly he will have an opportunity of moving it separately.

RESOLUTION *RE* BOUNTY TO BE PAID ON STEEL MANUFACTURED IN INDIA.

THE HONOURABLE THE PRESIDENT: I allowed the Resolution of the Honourable Mr. Chadwick regarding the bounty to be paid on steel manufactured in India within a certain period to be moved within the period of notice on the understanding that it would be circulated to Honourable Members of this Council at once. Perhaps it would be well if the Honourable Mr. Chadwick could indicate to the Council the terms of the Resolution.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): I have now got a copy of the Resolution and can read it out to the Council. It runs as follows:

"That this Council recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions:

(1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894.

(2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs. 12 a ton on 70 per cent. of the total weight of the ingots manufactured in each month.

(3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March, 1926, should be 18½ lakhs and in the year commencing the 1st of April, 1926, and ending the 31st of March, 1927, should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs."

The Council then adjourned till Eleven of the Clock on Monday, the 7th September, 1925.